**SEFTON MASH**

**Working Practice Agreement**

**For sharing information on children and families with and within the Sefton Multi-Agency Safeguarding Hub (MASH)**

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## Introduction and Partners

###### 1.1 Who is this agreement for?

This agreement is for all staff who share personal data with and within the Sefton Multi-Agency Safeguarding Hub (MASH). The agencies signed up to this agreement will be limited to those agencies specified in section 11 of the Children Act 2004 (arrangements to safeguard and promote welfare).

###### 1.2 Which partners are signed up to this agreement?

The agencies signed up to this agreement are:

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| Merseyside Police |
| Sefton Children’s Social Care |
| Sefton Adult Social Care |
| Sefton GP Surgeries |
| Early Help – Sefton Council |
| National Probation Service |
| Community Rehabilitation |
| Alder Hey Children’s NHS Foundation Trust |
| Southport and Ormskirk Hospital NHS Trust |
| Liverpool Women’s NHS Foundation Trust |
| Liverpool University Hospitals NHS Foundation Trust (Aintree Hospital) |
| Sefton Multi-Agency Safeguarding Hub |
| North West Boroughs Healthcare |
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The agency leads for information sharing under this agreement are known as Partnership Contact Officers.

## Purpose of this Agreement

***2.1 This agreement has been developed to:***

* Support agencies to share information to make safe decisions to improve outcomes for children. The word ‘children’ throughout this document also refers to the unborn child;
* Define the specific purposes for which the signatory agencies have agreed to share information;
* Describe the roles and structures that will support the exchange of information between agencies;
* Set out the legal gateway through which the information is shared, including reference to the Data Protection Act 2018, Human Rights Act 1998, General Data Protection Regulation 2018 and the common law duty of confidentiality;
* Describe the information standards that should be met in order to comply with the Data Protection Act and security standards;
* Describe how this agreement will be monitored and reviewed;
* **Whilst keeping the child at the centre of everything that we do.**

***2.2 General principles of information sharing***

To achieve the best outcomes for children and young people, to promote their welfare and safeguard them from harm, agencies need to work together. Children and young people’s needs and circumstances can be complex and it is only by agencies coming together and working collaboratively that we can achieve a holistic assessment of the child or young person within their family and community and ensure that they receive the services that they need.

Effective interagency working is dependent upon effective information sharing, whether a child or young person just needs some additional support (early intervention) or whether there are concerns that they are at risk of significant harm (safeguarding).

#### Early Intervention

Where a professional believes that it is necessary to share information to help them to better understand the needs of a child or family or to enable the child or family to receive a service from another agency and the child is not at risk of significant harm, they should seek the consent of the child (if appropriate) and the parents or carers before requesting the information or contacting the other agency. This will ensure that the family understand the issues and are more engaged with any services provided by agencies.

#### Safeguarding

Effective joint working can be undermined by poor communication and several Serious Case Reviews have highlighted poor information sharing as a factor. For this reason ‘Working Together to Safeguard Children (2018) is absolutely clear that ‘***Fears about sharing information must not be allowed to stand in the way of the need to promote the welfare, and protect the safety, of children, which must always be the paramount concern.’***

[**https://www.gov.uk/government/publications/working-together-to-safeguard-children--2**](https://www.gov.uk/government/publications/working-together-to-safeguard-children--2)

It is important that professionals share information in an appropriate and timely fashion. Professionals should, without delay, discuss with their line manager or designated safeguarding lead the need to share information when there are concerns about a child or young person. They will be able to discuss the need to speak to the parent or carer (and child/ young person if appropriate) about contacting Children’s Social Care, and how to inform the family.

There will be rare occasions when it would not be appropriate to seek the consent of child (if appropriate) and the parents or carers, to make a referral to Children’s Social Care; that is, when by doing so the child / young person  would be placed at immediate or greater risk of harm. Such an approach is supported by legislation (The Children Acts 1989 and 2004).

**Professionals can refer to MASH through the online referral form or the word document which is found on the council’s website.**

**https://www.sefton.gov.uk/social-care/children-and-young-people/report-a-child-or-young-person-at-risk/information-for-professionals.aspx**

**If a referral is made by the word document then this can be emailed to** [**socialcarecustomeraccessteam@sefton.gcsx.gov.uk**](mailto:socialcarecustomeraccessteam@sefton.gcsx.gov.uk) **which is a secure email account.**

**Further information about the procedure for sharing information under this agreement may be found in Appendix 4.**

###### 2.3 Why is information sharing needed?

Sharing information is an intrinsic part of any frontline practitioners’ job when working with children and young people. The decisions about how much information to share, with whom and when, can have a profound impact on individuals’ lives. Information sharing helps to ensure that an individual receives the right services at the right time and prevents a need from becoming more acute and difficult to meet.

Poor or non-existent information sharing is a factor repeatedly identified as an issue in Serious Case Reviews (SCRs) carried out following the death of or serious injury to a child. In some situations, sharing information can be the difference between life and death.

Fears about sharing information cannot be allowed to stand in the way of the need to safeguard and promote the welfare of children at risk or likely to be at risk without the involvement of services, of abuse or neglect. Every practitioner must take responsibility for sharing the information they hold, and cannot assume that someone else will pass on information, which may be critical to keeping a child safe.

In order to deliver the best evidence based decisions, which ensure that timely, necessary and proportionate interventions are made, decision makers need as much relevant information as possible, concerning an individual and their circumstances, to be available to them. Information viewed in isolation, or held in silos, will not give a complete picture from which to identify the true level of risk to an individual. Agencies are under statutory duties to share information to promote the safety and welfare of children.

Relevant and proportionate information from various agencies needs to be available and accessible in one place so that a single comprehensive view can be derived. A Multi Agency Safeguarding Hub (MASH) promotes this and aids communication between all safeguarding partners. By allowing all partners to share information in a timely manner, MASH processes will help to identify individuals who are subject, or likely to be subject, to harm, thus keeping them safe and enabling signatories to this agreement to legally and securely discharge their statutory obligations.

There may be occasions when there is no consent to share information. The decision to share information without consent can be overridden by the MASH Team Manager and the decision to override this must be fully recorded on the child’s record. The ability to make safe decisions for the child is the most important factor in determining whether decision can be shared without consent.

***2.4 A myth-busting guide to data sharing***

Sharing information enables practitioners and agencies to identify and provide appropriate services that safeguard and promote the welfare of children. Below are some common myths that may hinder effective information sharing.

* **Data protection legislation is a barrier to sharing information**

No – the Data Protection Act 2018 and General Data Protection Regulation do not prohibit the collection and sharing of personal information, but rather provide a framework to ensure that personal information is shared appropriately. In particular, the Data Protection Act 2018 balances the rights of the information subject (the individual whom the information is about) and the possible need to share information about them.

* **Consent is always needed to share personal information**

No – you do not necessarily need consent to share personal information. Wherever possible, you should seek consent and be open and honest with the individual from the outset as to why, what, how and with whom, their information will be shared. You should seek consent where an individual may not expect their information to be passed on. When you gain consent to share information, it must be explicit, and freely given. There may be some circumstances where it is not appropriate to seek consent, because the individual cannot give consent, or it is not reasonable to obtain consent, or because to gain consent would put a child’s or young person’s safety at risk.

* **Personal information collected by one organisation/ agency cannot be disclosed to another**

No – this is not the case, unless the information is to be used for a purpose that is incompatible with the purpose for which it was originally collected. In the case of children in need, or children at risk of significant harm, it is difficult to foresee circumstances where information law would be a barrier to sharing personal information with other practitioners.

* **The common law duty of confidence and the Human Rights Act 1998 prevent the sharing of personal information**

No – this is not the case. In addition to the Data Protection Act 2018 and GDPR, practitioners need to balance the common law duty of confidence and the Human Rights Act 1998 against the effect on individuals or others of not sharing the information.

* **IT Systems are often a barrier to effective information sharing**

No – IT systems, such as the Child Protection Information Sharing project (CP-IS), can be useful for information sharing. IT systems are most valuable when practitioners use the shared data to make more informed decisions about how to support and safeguard a child

***2.5 What happens following a referral?***

MASH helps deliver three key functions for the safeguarding partnership;

* Improved decision making for safeguarding children

Identify through the best information available to the safeguarding partnership those children and young people who require support or a necessary and proportionate intervention.

* Victim identification and early intervention

Identify victims and future victims who are likely to experience harm and ensure partners work together to deliver harm reduction strategies and interventions.

* Harm identification and reduction

Ensure that the needs of all vulnerable people are identified and signposted to the relevant partner/s for the delivery and co-ordination of harm reduction strategies and interventions including Local Authority Designated Officer (LADO)

The aim of this working practice agreement is to formally document how through the MASH arrangement the signatories to this agreement will share information about children and adults to:

* Ensure the right services are in place for children at the right time to prevent the need for Children’s Social Care intervention;
* Facilitate assessment of risk to enable protection of vulnerable individuals and reduce risk of harm;
* Increase the safety, health and well-being of victims of abuse and neglect by promoting better informed and timely multi agency assessments;
* Identify individuals who may pose a significant risk to any particular individual or to the general public to facilitate appropriate care and management plans;
* Ensure that were there are allegations against professionals that information is shared with Sefton’s LADO;
* Reduce repeat victimization;
* Prevent or detect crime.

**A professional who makes a referral to MASH should normally gain consent from the child/ children (if appropriate), the parents or carers, and any other family contacts listed on the referral, before making that referral. This involves explaining the concerns that they have and the reasons why they are making the referral. If any persons named on the referral do not consent to the referral then this would not automatically preclude a referral, because information can be shared lawfully without consent if it is to keep a child who is at risk of significant harm, safe. This initial stage of informing MASH of concerns is called a ‘contact’; relevant information is then gathered by MASH from Children’s Social Care and other agencies. If the contact is accepted, then the contact will either be referred for Early Help or for further assessment by Children’s Social Care.**

**For further information about the processes within MASH, please refer to the ‘MASH Information Leaflet’.**

[**https://www.sefton.gov.uk/social-care/children-and-young-people/report-a-child-or-young-person-at-risk/information-for-professionals.aspx**](https://www.sefton.gov.uk/social-care/children-and-young-people/report-a-child-or-young-person-at-risk/information-for-professionals.aspx)

**For the purposes of safeguarding and to enable practitioners in MASH to inform their decision, there may be cases where a MASH enquiry needs to take place. A MASH enquiry does not take place on all contacts but do take place where the team manager feels that it would be appropriate and proportionate to inform decision making. In these circumstances consent will be sought (if appropriate) either verbally or written to share appropriate information with other agencies. If consent has not been given at the point of the referral or MASH have been unable to ascertain their consent, then a decision will be made by the team manager as to whether or not this should be overridden and dispensed with and a clear rationale as to why. In all these circumstances, where it leads to an assessment, the information gathered in the MASH enquiry will be passed to the relevant social work team.**

***2.6 Some additional considerations***

#### Gillick Competent Children

**If you have concerns regarding a young person (usually aged 13+) who is Gillick competent, and that young person would like support from an agency but does not want their parent to be informed, it is the responsibility of the agency to identify that support and make contact with the appropriate agency to work with the young person. If, however, the agency with the concern is of the view that a multi-agency team is required to support the young person, then they must be transparent with the young person and family, and inform them that a contact will be made to MASH or an early help assessment will be undertaken, to determine the most appropriate multi-agency team to support the family**

#### Information from Merseyside Police

**Any information and intelligence shared by the police with MASH will be disclosed to the assessing social worker and Team Manager where lawful sharing is permitted, in order to make evidence based decisions.  Confirmation will be given by the Police as to what information (if any) can then be onwardly disclosed to the family. This decision will be made giving all due regard to protecting people whilst also balancing operational sensitivities and risks that may likely arise due to revelation. It is important to note that police revealing intelligence to social workers and key partners is not an indication that the same information can be further shared.**

* **Information from Sefton GP Surgeries**

**MASH will request information from GP surgeries using the agreed ‘request for information’ form (Appendix 5), which will be completed in full & sent to a GP surgery’s agreed email address. GP surgeries will have different internal procedures for checking their email account so it is expected that MASH will also telephone GP surgeries if information is required within less than 24 working hours. The request for information form lists the specific information that MASH are looking for from GP surgeries & the GP surgery will not be expected to send irrelevant medical information. The GP surgery may reply to the request for information by email or by telephone. The GP surgery will expect that MASH health representative advise them of the outcome of the contact within three working days, so that the GP surgery can update their safeguarding records.**

**Please see appendix 5 ‘request for information form’.**

## Powers to Share under this Agreement

There are several powers enabling the sharing of information under this agreement; these are detailed in Appendix 1: relevant Legislation and Statutory Guidance:

#### Borders, Citizenship and Immigration Act (2009);

#### Children Act (1989);

#### Children Act (2004);

#### Crime and Disorder Act (1998);

#### Criminal Justice and Courts Services Act (2009);

#### Data Protection Act (2018);

#### Education Act (2002);

#### Local Government Act (1972);

#### Local Government Act (2002);

#### National Health Service Act (2006);

#### Health and Social Care Act (2012);

#### Working Together to Safeguard Children (2018).

Agencies recognise that any disclosures made under this agreement must comply with the General Data Protection Regulation/ Data Protection Act (2018), the Human Rights Act (1998) & the Common Law Duty of Confidentiality – further information about this can be found in Appendix 2.

Agencies will assist the Multi-Agency Safeguarding Hub with discharging its functions, having regard to **the need to safeguard and promote the welfare of children.** Provided that disclosures made under this agreement are **fair, lawful, necessary, proportionate, relevant, accurate, timely and secure**, then any sharing should be compatible with this legislation.

Agencies agree that they are each responsible for ensuring their compliance with this legislation and any another relevant legislation. Agencies agree to adhere to the Information Standards identified in Appendix 3, which will also assist them in complying with the Data Protection Act 2018.

**Appendix 1**

**Sharing information with and within the MASH: relevant Legislation and Statutory Guidance**

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| **Legislation** | **Section Description** |
| **Borders, Citizenship and Immigration Act 2009** | **Section 55** – this section places a duty on the Secretary of State to make arrangements for ensuring that immigration, asylum, nationality and customs functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK. This section applies to the UK Border Agency and is similar to the duties placed on local authorities under section 11 of the Children Act 2004. |
| **Children Act 1989** | **Section 17** – general duty of local authorities to safeguard and promote the welfare of children within their area who are in need, and so far as is consistent with that duty, to promote the upbringing of such children by their families.  **Section 47** – where a local authority is informed that a child who lives, or is found, in their area is the subject of an emergency protection order or is in police protection or there is reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm, there is a duty to investigate. |
| **Children Act 2004** | **Section 10** – promote co-operation to improve wellbeing.  **Section 11** – arrangements to safeguard and promote welfare. |
| **Crime and Disorder Act 1998** | **Section 17** – duty of each authority to exercise its functions with due regards to the likely effect of the exercise of those functions, and the need to do all that it reasonably can, to prevent crime and disorder in its area.  **Section 115** – any person who apart from this section would not have power to disclose information to a relevant authority or to a person acting on behalf of such an authority, shall have the power to do so in any case where the disclosure is necessary or expedient for the purposes of this act. |
| **Criminal Justice and Courts Services Act 2009** | **Section 67** – the authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by relevant sexual or violent offenders and other persons who have committed offences who are considered by the authority to be persons who may cause serious harm to the public.  **Section 68** – interpretation of who is a relevant sexual offender. |

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| --- | --- |
| **Data Protection Act 2018** | **Schedule 1, Part 2, Paragraph 18** – where processing is necessary for protecting an individual from neglect, physical, mental and emotional harm or protecting the physical, mental or emotional well-being in the substantial public interest; without consent in certain circumstances.  **Schedule 2, Part 1, Paragraph 2** – where disclosure is required for the prevention or detection of crime of the apprehension or prosecution of offenders.  **Schedule 2, Part 1, Paragraph 5** – where the disclosure is required by or under enactment, by any rule of law or by the order of a court. |
| **Education Act 2002** | **Section 175** – a local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children. |
| **Local Government Act 1972** | **Section 111(1)** – a local authority shall have the power to do anything which is calculated to facilitate, or is conducive to or incidental to, the discharge of any of their statutory functions. |
| **Local Government Act 2000** | **Section 2(1)** – a local authority shall have the power to do anything which they consider is likely to achieve the promotion or improvement of the social well-being of their area. |
| **National Health Service Act 2006** | **Section 82** – in exercising their respective functions NHS bodies and local authorities must co-operate with one another in order to secure and advance the health and welfare of the people in England and Wales.  **Section 201(3)(d)** – a disclosure of information may be made if it is for the purposes of any criminal investigation or proceedings.  **Section 201(6)** - Information to which this section applies may be disclosed in accordance with section 201(3) despite any obligation of confidence that would otherwise prohibit or restrict the disclosure. |
| **Health and Social Care Act 2012** | **14Z23 Permitted disclosures of information**   1. A clinical commissioning group may disclose information obtained by it in the exercise of its functions if:    1. the information has previously been lawfully disclosed to the public,    2. the disclosure is made under or pursuant to regulations under section 113 or 114 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about health care or social services),    3. the disclosure is made in accordance with any enactment or court order,   (d) the disclosure is necessary or expedient for the purposes of protecting the welfare of any individual,  (e) the disclosure is made to any person in circumstances where it is necessary or expedient for the person to have the information for the purpose of exercising functions of that person under any enactment,   1. the disclosure is made for the purpose of facilitating the exercise of any of the clinical commissioning group’s functions, 2. the disclosure is made in connection with the investigation of a criminal offence (whether or not in the United Kingdom), or 3. the disclosure is made for the purpose of criminal proceedings (whether or not in the United Kingdom)   (2) Paragraphs (a) to (c) and (h) of subsection (1) have effect notwithstanding any rule of common law which would otherwise prohibit or restrict the disclosure. |
| **Statutory Guidance** |  |
| **Working Together to Safeguard Children 2004/ 2013/ 2018** | A guide to inter-agency working to safeguard and promote the welfare of children (2004/ 2018) |

**Appendix 2**

**Complying with the EU General Data Protection Regulation, Data Protection Act 2018, Human Rights Act 1998 and Common Law Duty of Confidentiality**

*The General Data Protection Regulation and Data Protection Act 2018*

Before agencies can share information with the MASH, they must establish whether they have the power in law to do so. Agencies need express or implied powers to share information. Appendix 1 provides a list of legislation that may be relevant to enabling the sharing of information with the MASH. This list is not exhaustive and acts as a guide only.

As well as considering the laws in Appendix 1, each agency must ensure that the disclosures they make are compatible with the Principles of the Data Protection Act 2018; the Human Rights Act 2000 (Article 8, right to a private life) and the Common Law Duty of Confidentiality. Failure to do so could mean that some or all of the disclosure is unlawful.

The Data Protection Act 2018 (the DPA 2018) is the legal framework for obtaining, using, storing, disclosing and deleting personal data about identifiable people. The Act is built around six principles. A summary of the principles is below:

* The processing of personal data must be lawful, fair and transparent

#### The purpose for which personal data is collected on any occasion must be specified, explicit and legitimate, and personal data so collected must not be processed in a manner that is incompatible with the purpose for which it is collected.

* Personal data must be adequate, relevant and not excessive in relation to the purpose for which it is processed.
* Personal data undergoing processing must be accurate and, where necessary, kept up to date.
* Personal data must be kept for no longer than is necessary for the purpose for which it is processed.
* Personal data must be processed in a manner that includes taking appropriate security measures as regards risks that arise from processing personal data.

When sharing personal data with the MASH, agencies must comply with these principles, in particular the first principle – *personal data must be processed fairly, lawfully and transparently*.

In order to be ‘fair’, when an agency shares information with the MASH, the person whose information is being shared (the data subject) must be told, if it is appropriate: why their data is being shared, who will see it and what the likely consequences or outcomes are, unless by doing this it would prejudice the prevention or detection of a crime or place the child or young person at risk of harm. Individuals have a ‘right to be informed’ and a right of access to their personal data under the GDPR and DPA. The easiest way to provide individuals with privacy information is via a ‘Privacy Notice’.

Agencies agree to have adequate Privacy Notices in place to notify data subjects of how and why their personal data may be shared with the MASH.

The second requirement of the first principle is to ensure that any sharing that takes place is ‘lawful’. Article 6 of the GDPR provides a list of specific grounds for the processing of personal data. One of these must be met in order for the sharing of personal data to be lawful. If any of the personal data are classed as one of the ‘special categories’ then one of the specific grounds or ‘basis’ from Article 9 of the GDPR must be satisfied too. The GDPR defines special category personal data as’ revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation’.

When an agency wants to share personal data with the MASH, it must have a lawful basis as set out in Article 6 of the GDPR. If ‘special categories’ of personal data are to be shared, the disclosing person must also specify a lawful basis under Article 9 of the GDPR. **Without a lawful basis, the processing will be deemed to be unlawful.**

Agencies recognise that a lawful basis from the following options derived from the GDPR, must be determined first, when considering whether they can lawfully share information with the MASH:

***The available lawful bases for sharing personal data set out in Article 6 of the GDPR are:***

1. ***Consent****: the individual has given clear consent for you to process their personal data for a specific purpose*
2. ***Contract:*** *the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract*
3. ***Legal obligation****: the processing is necessary for you to comply with the law (not including contractual obligations).*
4. ***Vital interests****: the processing is necessary to protect someone’s life.*
5. ***Public task****: the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.*
6. ***Legitimate interests****: the processing is necessary for your legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual’s personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)*

***The available lawful bases for sharing special category data set out in Article 9 of the GDPR are:***

1. *the data subject has given* ***explicit consent*** *to the processing of those personal data for one or more specified purposes,*
2. *processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the* ***field of employment and social security and social protection law***
3. *processing is necessary to* ***protect the vital interests*** *of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent*
4. *processing is carried out in the course of* ***its legitimate activities*** *with appropriate safeguards* ***by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim***
5. *processing relates to personal data which are manifestly* ***made public by the data subject***
6. *processing is necessary for the* ***establishment, exercise or defence of legal claims*** *or whenever courts are acting in their judicial capacity*
7. *processing is necessary for reasons of* ***substantial public interest****, on the basis of Union or Member State law which shall be proportionate to the aim pursued,*
8. *processing is necessary for the* ***purposes of preventive or occupational medicine****, for the assessment of the working capacity of the employee, medical diagnosis*
9. *processing is necessary for* ***reasons of public interest in the area of public health****, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices*
10. *processing is necessary for* ***archiving purposes in the public interest, scientific or historical research purposes or statistical purposes***

**Data Protection Act 2018** – **Part 2 of Schedule 1 to the DPA 2018**

Schedule 1, Part 2 of the DPA 2018 sets out the ‘substantial public interest conditions’.

Paragraph 18 provides conditions which must be met when **safeguarding of children and of individuals at risk.**

(1) This condition is met if—

(a) the processing is necessary for the purposes of—

(i) protecting an individual from neglect or physical, mental or emotional harm, or

(ii) protecting the physical, mental or emotional well-being of an individual,

(b) the individual is—

(i) aged under 18, or

(ii) aged 18 or over and at risk,

(c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and

(d) the processing is necessary for reasons of substantial public interest.

(2) The reasons mentioned in sub-paragraph (1)(c) are—

(a) in the circumstances, consent to the processing cannot be given by the data subject;

(b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;

(c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub- paragraph (1)(a).

(3) For the purposes of this paragraph, an individual aged 18 or over is “at risk” if the controller has reasonable cause to suspect that the individual—

(a) has needs for care and support,

(b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and

(c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.

(4) In sub-paragraph (1)(a), the reference to the protection of an individual or of the well-being of an individual  includes  both  protection  relating  to  a particular individual and protection relating to a type of individual.

Where this condition is used, the data controller **MUST:**

* *have an appropriate policy document in place when the processing is carried out;*
* *retain the appropriate policy document;*
* *review if and update it when necessary;*
* *make it available to the Information Commissioner on request;*
* *retain it from the start of the processing in reliance on the condition and for 6 months from when the controller ceases to carry out such processing.*

Agencies agree to ensure they comply with the remaining DPA 2018 principles when sharing personal data.

*The Human Rights Act 1998*

As well as satisfying the Data Protection principles, agencies recognise that any disclosures they make must also be compatible with a person’s ‘right to a private life’, as described in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). The Human Rights Act 1998 gives effect in UK law the rights contained in the ECHR.

Article 8 of the ECHR gives a person the right to respect for his/her private life, family life, home and correspondence. A public authority cannot ‘interfere’ with this right unless it is in accordance with the law, is necessary in a democratic society and is for a legitimate purpose.

Although the sharing of the information through the MASH may appear to contravene a person’s ‘right to a private life’ (particularly in cases where individuals do not want their information to be shared), public authorities are able to override this right in cases where it is in the public interest to do so; is in pursuit of a legitimate aim and the level of interference is proportionate to that intended aim.

Legitimate Purposes

Legitimate purposes are defined in Article 8(2) of the ECHR and include national security; public safety or the economic well-being of the country; the prevention of disorder or crime; for the protection of health or morals; or for the rights and freedoms of others.

Section 11 of the Children Act 2004 places a legal obligation on the public authorities signed up to this agreement to safeguard and promote the welfare of children. Any sharing under this agreement which is for these purposes will be compatible with the aims listed above and therefore disclosures will not breach the ECHR, provided they are proportionate and necessary.

The sharing of information under this agreement is also in line with Articles 2 and 3 of the ECHR, namely the ‘right to life’ and the ‘right to prohibition of torture or inhuman or degrading treatment’.

Proportionate

The amount and type of information that should be shared with the MASH must be proportionate and necessary, in order to achieve the purposes of this agreement. It should be remembered that the ECHR does not restrict information from being shared for safeguarding and welfare purposes, but does require that consideration is made regarding what is ‘reasonable’ in the circumstances.

*Duty of Confidentiality*

The final strand to be considered when sharing personal data with the MASH is the common-law duty of confidentiality. A person cannot use information which was originally provided in confidence, without the individual’s permission, unless there is an overriding reason in the public interest for this to happen or another law or power permits disclosure.

When judging whether disclosure is in the public interest, agencies should consider the following:

* Is the intended disclosure proportionate to the intended aim?
* What is the vulnerability of those who are at risk?
* What is the impact of disclosure likely to be on the individual?
* Is there another equally effective means of achieving the same aim?
* Is the disclosure in the interest of maintaining public safety?
* Is the disclosure necessary to prevent or detect crime and uphold the rights and freedoms of the public?
* Is it necessary to disclose the information, to protect other vulnerable people?

If a MASH Enquirer is given information which was provided to them in confidence, they can share this information with the MASH if one or more of the following applies:

* They have the person’s consent;
* The sharing is necessary to protect a child, young person or adult from harm as a result of abuse or neglect;
* The sharing is necessary to prevent or detect a crime or apprehend an offender; or
* The sharing is necessary to comply with an explicit legal obligation or a court order.

When overriding a duty of confidence, the MASH Enquirer must take into account their organisation’s views on overriding a duty of confidence and the organisation that holds the duty of confidence and seek legal advice where necessary. Any disclosures made into the MASH must be relevant, not excessive and proportionate to the intended aim of the disclosure .

##### Appendix 3

**Information Standards**

Consent

Agencies agree to notify children (data subjects) and/or their parents or carers if appropriate, that their personal data may be shared, in the form of a privacy notice, which should describe the appropriate legal bases for sharing their personal data for the purposes of safeguarding.

Agencies agree that before making a MASH referral, consent must be obtained from a parent or carer, and/or from the young person if they are aged 16 years or over (or if they are between 12 and 16 years old and competent to understand what is being asked of them), except where the child or young person is considered to be at risk of significant harm and the agency believes that seeking consent may increase this risk or there is another legal power that enables the sharing of information.

Agencies understand that consent must be freely given and the data subject must be fully informed and understand what they are consenting to and the possible consequences of giving or refusing their consent.

Agencies understand that the Data Protection Act 2018 **does not** require them to notify the data subject of any sharing or ask for their consent, if in doing so it would prejudice the prevention or detection of crime, catch an offender or place the child, young person or someone else at increased risk of harm.

If consent is required and is refused, the information should not be shared with the MASH, unless another power to share the information can be relied upon; for example, disclosure is in the overriding public interest or that sharing is necessary to protect someone from serious harm or it is necessary to comply with an explicit legal obligation.

Information quality and relevance

When sharing personal data with the MASH, in response to a request to share relevant information, agencies agree to share information necessary to enable the MASH to identify whether the child or young person identified is at risk of harm or is in need of additional services and support.

Agencies agree, where practical, to check that the information they disclose to the MASH is accurate and, where necessary, up to date at the time of disclosure. Agencies also agree that, where practical, they will notify the MASH of any new information that comes to light following their disclosure that could assist the MASH in their decision making.

Agencies agree to make a pragmatic decision as to whether the information they disclose to the MASH is relevant to the enquiry being made. Irrelevant or excessive information should not be disclosed.

Retention of information

The information gathered by the MASH will be held on the MASH Protect system and will be held in accordance with Sefton’s Council’s Record Retention Policy.

https://www.sefton.gov.uk/your-council/open-data,-transparency-and-foi/data-protection,-freedom-of-information-and-re-use-of-council-data/data-protection.aspxHolding the information securely

Sefton County Council owns and maintains the MASH protect system and is classed as the ‘Data Controller’ under the Data Protection Act 2018 for the information held on this system. The MASH information held on the MASH protect system is restricted to a small number of individuals who need access to this information to carry out their role within the MASH.

Staff working within the MASH understand their responsibilities for keeping personal data secure and will only disclose relevant and proportionate information to persons who are legally entitled to see the information and in accordance with this agreement.

Sharing the information securely

All agencies recognise the importance of sharing personal information securely. Agencies signed up to this agreement agree to provide the MASH with a secure e-mail address, to enable personal data and other sensitive information to be supplied between agencies securely.

Reporting a security incident or breach

It is good practice for agencies to have in place a mechanism for staff and the public to report information security incidents (for example, loss or theft of personal or confidential data held on computer equipment or paper) whether they are actual incidents or near misses. These incidents should be reported to the person responsible for Information Security or Data Protection within the relevant agency. If personal data is lost or stolen and contains information which has been provided by another agency, the originating agency must be told and kept informed of the outcome of the investigation into the incident.

Security incidents involving information provided by or to the MASH must be brought to the attention of the MASH Operational Lead (email: [MASHTeam@sefton.gov.uk](mailto:MASHTeam@sefton.gov.uk)) who will report the incident to Sefton Council’s Information Governance Team*.* Serious security incidents will be reported to the MASH Steering Group.

Agencies must have due regard for the legal requirement to inform the Information Commissioner’s Office & the Data Subject about personal data breaches that are deemed to likely to result in a high risk of adversely affecting individuals’ rights and freedoms.

Access to personal data – Subject Access Requests

Individuals have a right to access personal data about them. This right comes from Article 15 of the GDPR and Part 3, Chapter 3, Paragraph 45 of the Data Protection Act 2018 (Right of Access by the Data Subject).

For the purposes of the personal data held by the MASH, Sefton Council is classed as the ‘data controller’. Any subject access requests which may include MASH information must be sent immediately to the Access to Files Officers to process, via: [**AccessToFiles@sefton.gcsx.gov.uk**](mailto:AccessToFiles@sefton.gcsx.gov.uk)

Sefton Council will not release information or documents provided by partners, without consulting with them first. Sefton Council will also be mindful of the exemptions under the Data Protection Act 2018 which prohibit disclosure.

Requests for agency held data must be processed by the relevant agency, in line with their own Subject Access procedures.

Complaints

All complaints made in respect of disclosures made to or by the MASH will be brought to the attention of the relevant nominated Information Compliance Officer, Data Protection Officer and the relevant agency’s complaints team. The complaint will be dealt with in accordance with the agency’s own complaints procedure.

Publication of this agreement

The MASH Working Practice Agreement may be published by each of the agencies in accordance with their obligations under the Freedom of Information Act 2000, subject to any exemptions.

Quality and performance

Compliance of the Working Practice Agreement will be subject to scrutiny by the ‘Sefton Safeguarding Children Board Quality Assurance, Audit and Complaints’ sub group multi-agency case audit process and children’s social work audit process.

Agreement review and changes

The nominated holder of this agreement is Catherine Larkin, Information Management and Governance Lead and the Data Protection Officer for Sefton Council. The nominated holder will make sure that the agreement is reviewed on a regular basis, taking into account any new legislation or official guidance. This will be done after the first six months and then on an annual basis thereafter.

Agencies can ask for changes to be made to the agreement at any time by submitting a request to the nominated holder at who will circulate the requests to the MASH Strategy Group, then co-ordinate responses and where appropriate, seek agreement to the requested changes from the MASH Strategy Group.

##### Appendix 4

**Procedure for sharing information under this Agreement**

#### Agencies agree that a referral should be made when there are safeguarding concerns that may require children’s social care involvement.

***Before Making a Referral***

#### Before making a MASH referral, the referrer should consider if the child or young person’s needs can be met by services or support from within their own agency, or by other professionals already involved with the family. This usually involves conducting an Early Help Assessment in relation to the child or young person and the family. Support and guidance about the Early Help Assessment can be obtained from the Sefton LSCB:

[**https://seftonlscb.safeguardingpolicies.org.uk/assets/1/level\_of\_need\_guidance\_oct\_2017.pdf**](https://seftonlscb.safeguardingpolicies.org.uk/assets/1/level_of_need_guidance_oct_2017.pdf)

#### The Sefton Safeguarding Children Board has developed a set of multi-agency level of need descriptors to assist in determining levels of need to support professionals who are considering making a referral, which can be found at the same webpage.

1. Agencies agree that before making a MASH referral, consent must be obtained from a parent or carer, and/or from the young person if they are aged 16 years or over (or if they are between 12 and 16 years old and competent to understand what is being asked of them), except where the child or young person is considered to be at risk of significant harm and the agency believes that seeking consent may increase this risk or there is another legal power that enables the sharing of information.
2. As part of the process of seeking consent, the family must also be informed (where appropriate) that their information may be shared with the Early Help service following the outcome of a contact, in order to ensure the family are able to access the support they may need without delay.

Requests for Information from Agencies & Responses

1. The MASH will ask each of the relevant agencies to provide relevant information to assist in the enquiry outcome decision
2. Each of the agencies agree to nominate a Partnership Contact Officer who will be the main point of contact for their organisation for sharing information with the MASH. They will either be based within the MASH or available by telephone. Staff who share information are required to be able to make a professional judgement in regard to the information shared, which will ensure that children are safeguarded, and be mindful that the information should be proportionate to the enquiry and deemed risk. Partnership Contact Officers will ensure that information sharing training is made available to appropriate staff within their organization, and that they understand and adhere to the procedures for sharing information with the MASH stated in this agreement.
3. When agencies have been contacted to share information by their agency representative in MASH, it is that representative’s responsibility to feedback the outcome of the enquiry.
4. Agencies agree to supply only information which they consider to be relevant and proportionate to the enquiry. Sefton Council staff will collate the agency responses received and save them in a protected MASH space on children’s electronic records.

***Procedure for Cases that Do Not Meet the Threshold for a Social Care Referral***

1. If the Social Worker or Social Work Manager decides that the child does not at this stage meet the threshold for referral to Social Care they will inform the referrer of their decision by letter or telephone within 1 working day. This will be recorded on the child’s record
2. The Social Worker or Social Work Manager will write to the family, informing them that a MASH Referral has been made and of the decision reached by the MASH. If the family would benefit from Early Help, the letter will include the specific agency who will contact the family to offer support. A copy of the letter will be included in the step down referral to the agency identified to support the family.
3. MASH will inform the Early Help service of the concerns noted in the initial referral, in order for the service to conduct an assessment.



##### Appendix 5

**\*\*\* Please return your information via email to mash.sefton@nhs.net \*\*\***

**URGENT REQUEST.**

|  |  |  |
| --- | --- | --- |
| **1.** | **Date of request:** |  |
| **2** | **Response required by:** |  |

|  |  |  |
| --- | --- | --- |
| **3** | **Details of the person making the request:** | |
| Name of SCSN: | |  |
| Job title: | |  |
| Contact details:  Address  Telephone | |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **4 Details of the person and the family contacts for whom information is requested:** | | | | |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

|  |  |  |
| --- | --- | --- |
| **5** | **Reason for request** | |
| Allegation/ concerns/ level of risk/ legal process etc.:  Previous MASH enquiries and  reasons | |  |
| **6 Information required:** | | Please provide a summary of the child’s/ children’s health, including the concerns listed below.  Any safeguarding or health concerns that may impact on the parent’s parenting capacity, as listed below.   * Child and/ or adult mental health issues, substance misuse, alcohol misuse. * Any domestic violence. * Any concerns around Child Sexual Exploitation (CSE) or Child Criminal Exploitation (CCE) * Neglect – missed health appointments, poor home conditions. * Ongoing health conditions for parents that may impact on their parenting ability. * Any relevant or significant A&E/ walk-in centre attendances for child and/ or parents. * Date child and parents last seen at GP surgery. * Any known criminal activity. * Any interventions from other agencies, i.e. Addaction/ SWACA/ mental health services. * Any historical social care concerns for parents/ child. * Compliance with medication and treatment. |

**In the majority of cases, the parents are made aware of the referral by the referrer. However, some referrals are made anonymously via members of the public. NSPCC referrals are also anonymous & parents may not be aware of the referral in this instance.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **7** | **Consent:** | | | |
| Has the consent of the child/ children been obtained, for the disclosure of the information being requested? | |  | | **Tick (X)** |
| Yes | |  |
| (Copy attached) | |  |
| No | |  |
| If No, then please give an individual, full and clear explanation of why not for this case :- | | | | |
| Has the consent of the parent/ guardian been obtained, for the disclosure of the information being sought? | |  | **Tick (X)** | |
| Yes |  | |
| (Copy attached) |  | |
| No |  | |
| If No, then please give an individual, full and clear explanation of why not for this case :- | | | | |
| Has the consent of any other listed family contacts been obtained, for the disclosure of the information being sought? | |  | **Tick (X)** | |
| Yes |  | |
| (Copy attached) |  | |
| No |  | |
| If No, then please give an individual, full and clear explanation of why not for this case :- | | | | |

**If you require additional information to aid your decision making process, please do not hesitate to contact us 0151 934 3567.**