

Information sharing – national guidance and legislation (Sidebotham et al 2016)

Source	What the guidance says about information sharing
Caldicott Guidelines, 1997, updated 2013 (Caldicott 2013)	<p>The original six Caldicott Principles were updated in 2013 to include a seventh principle, particularly recognising the importance of information sharing for safeguarding:</p> <p><i>The duty to share information can be as important as the duty to protect patient confidentiality.</i></p> <p><i>Health and social care professionals should have the confidence to share information in the best interests of their patients within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies.</i></p> <p>The original six principles remain: that the use of personal confidential data must be justified; necessary; proportionate, using the minimum necessary data; used on a need-to-know basis; lawful; and that those handling personal confidential data are aware of their responsibilities.</p>
Information sharing: Advice for practitioners providing safeguarding services (Department for Education, 2015)	<p>Outlines seven golden rules to sharing information, including:</p> <p><i>The Data Protection Act 1998 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.</i></p> <p><i>Share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case.</i></p>
Data Protection Act, 1998 (HM Government 1998)	<p>Defines personal and sensitive data and outlines legal requirements for the safe and secure handling of such data. Allows for the disclosure of personal and sensitive information for the prevention or detection of crime; where the disclosure is required by or under any enactment, by any rule of law or by the order of a court; and where the disclosure is necessary for the exercise of any other functions of a public nature exercised in the public interest by any person.</p>

<p>Confidentiality: NHS code of practice, 2003 (Department of Health 2003)</p>	<p>The NHS Code of Practice outlines guidance that must be followed by all NHS staff. It emphasises the duty of confidentiality, and stresses that information may be shared if it is done with the individual's explicit consent; if there is a statutory requirement or court order to do so; or if it is the public interest. This latter clause allows for staff to share information in order to prevent and support the detection, investigation and punishment of serious crime and/or to prevent abuse or serious harm to others:</p> <p><i>Information that can identify individual patients, must not be used or disclosed for purposes other than healthcare without the individual's explicit consent, some other legal basis, or where there is a robust public interest or legal justification to do so.</i></p> <p><i>Any disclosure that has either a statutory requirement or court order must be complied with.</i></p> <p><i>Under common law, staff are permitted to disclose personal information in order to prevent and support detection, investigation and punishment of serious crime and/or to prevent abuse or serious harm to others where they judge, on a case by case basis, that the public good that would be achieved by the disclosure outweighs both the obligation of confidentiality to the individual patient concerned and the broader public interest in the provision of a confidential service.</i></p>
<p>General Medical Council, 2009 (GMC, 2009)</p>	<p>Sets out principles for patient confidentiality and allows for the legitimate sharing of information where the patient has given consent; where it is required by law; and where it is justified in the public interest. In this latter regard, the guidance specifies:</p> <p><i>Personal information may, therefore, be disclosed in the public interest, without patients' consent, and in exceptional cases where patients have withheld consent, if the benefits to an individual or to society of the disclosure outweigh both the public and the patient's interest in keeping the information confidential.</i></p> <p>The guidance advises seeking consent before sharing information deemed to be in the public interest, but outlines situations where this would not be appropriate, including when to seek such consent might put the doctor or others at risk of serious harm, or where to do so might undermine the purpose of the disclosure, for example by prejudicing the prevention or detection of serious crime. It stresses that <i>When you are satisfied that information should be disclosed, you should act promptly to disclose all relevant information.</i></p>