

Legal Duties and Powers to Share Information in relation to Children and Young People

Statutory Provisions to Information Sharing – Child Protection

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Any agency or public body	There is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm	Social Care	Section 47 Children's Act 1989
Children's Services	To undertake enquiries in order to decide if action should be taken to safeguard or promote the child's welfare	Any agency who may have information	Section 47 (1) Children's Act 1989
Local Housing Authority, Special Health Authority, Primary Care Trust, NHS Trust	Children's Services request for information in order to decide if action should be taken to safeguard or promote the child's welfare	Children's Services	Section 47 (9) Children's Act 1989

Child Protection – People Unsuitable to Work with Children/Vulnerable Adults

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Any organisation employing a person in child care position	An individual has been found guilty of misconduct (whether or not in the course of his/her employment)	Department of Education and Skills, Department of Health	Protection of Children Act 1999 Section 2A
Any organisation dealing with child care	The organisation wishes to offer a job to a person in a child care capacity	Department of Education and Skills, Department of Health	Protection of Children Act 1999 Section 3

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Any organisation employing a person in a care of vulnerable people position	A person is found to be unsuitable to work with vulnerable people	Department of Health	Care Standards Act 2000 Section 82
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Children with a Disability

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Children's Services/Local Authority	To compile and maintain a register of disabled children	Health	Children's Act 1989 Section 17 (2)
Any Local Authority Service	There is a need for health or housing provision and Health or Housing can assist with the assessment	Primary Care Trust, Health Authority or Local Housing Authority	Section 47 National Health Service Act and Community Care Act
Children's Services/Local Authority	To compile and maintain a register of blind; partially sighted; deaf with speech; deaf without speech; hard of hearing; and general classes (those whose primary handicap is neither visual nor auditory)	Health Services	National Assistance Act 1948 Section 29

Children with Special Educational Needs

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Education/Health	To assess a child's SEN	Health, Education, Children's Services. Also they should seek advice from child's parent, Head Teacher, the teacher who taught the child,	Section 322 Education Act 1996 Education (Special Education Needs) (England)

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		the person who the authority are satisfied has experience of teaching children with SEN. Medical advice from the Health Authority. Psychological advice. Advice from social care. Any other advice which the LEA considers appropriate	(Consolidation) Regulation 2001 (SI 3455/2001) Regulation 7(1)
LEA	Considering making an assessment of SEN. LEA under obligation to send copies of the notice stating they are considering an assessment of SEN	Children's Services, Health Authority, Head Teacher of School pupil registered with (if any). If the child receives education from an early education provider, to the head of SEN in relation to that provider	Education (Special Education Needs) (England) (Consolidation) Regulation 2001 (SI 3455/2001), Regulation 6

Children and Young People involved or likely to be involved in Crime and Disorder

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Police, Housing, National Park Authority, Health, Probation; Youth Offending Team	Have reasonable belief that a child or young person is likely to commit a crime and therefore to prevent crime occurring	Any appropriate agency that can assist the child or young person to prevent them from committing a crime. E.g. Health, Youth Offending, Voluntary Agency if appropriate	Crime & Disorder Act 1998 Section 115; Section 17 (1); Section 37 and Section 38. (Information disclosed must be on a need to know basis and minimum amount provided

A Child or Young Person who is in the Care of the Local Authority

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Children's Services	<p>Because a Looked-After Child is being accommodated at an establishment at which education is provided</p> <p>Because parents/carers of a LAC have moved to another area and have another child</p> <p>To inform an assessment of a child. Because a Judge has made a finding of fact which has implications for other children</p>	<p>The Local Education Authority of the area in which the establishment is located</p> <p>Social care in the new area</p> <p>LEA, Health Authority, relevant agencies</p>	<p>Children Act 1989 Section 28</p> <p>FPC rule 23 Family Proceedings Court (Children Act) Rules 1991 CC10.20(3) rule Family Proceedings Rules 1991</p> <p>For documents before a Court in any proceedings under the Children Act or Adoption Act leave must always be obtained prior to disclosing (sharing)</p>
Any Health Authority or Local Education Authority	<p>Because a child is being accommodated by them and they are obliged to inform Social care of this fact</p> <p>Social care has to ensure the child's welfare is being adequately safeguarded and promoted</p>	Children's Services in area where the child is being accommodated	Children Act 1989 section 85

A Child or Young Person who is Leaving or Has Left Care

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Children's Services	<p>Because a young person is entitled to leaving care services and social care has a duty to keep in contact with such a young person and to provide advice and assistance</p> <p>A young person is eligible if he/she has been in care for a period of 13 weeks or more since he/she was 14 and has left care after 16 but is still under 21. It does not include children who have received respite care or if the young person has returned home</p>	<p>Any agency that may have any information about the young person which enables the LA to undertake its statutory duty.</p> <p>Most likely to be Health Services but could be any agency (GP registration)</p>	Children Act 1989 Section 23 and Section 24, as amended by Children (Leaving Care) Act 2000 sections 24, 24A to 24D
Children's Services	Because Children's Services has lost contact with an eligible care leaver and has to take reasonable steps to locate them	Any agency who has this information, most likely Health	Children Act 1989 Section 23 and Section 24, as amended by Children (Leaving Care) Act 2000 sections 24, 24A to 24D

General Functions, Powers and Duties (Implied Statutory Powers)

To use implied statutory powers, stronger justification is required to demonstrate that it is necessary to share sensitive data without explicit consent

Agency	Why do you want to share/request information?	From whom do you wish to share/request information?	Legal basis to share/request information
Any Local Authority Department	Because the department has a statutory duty to carry out a particular function, e.g. filling in the Pupil Level Annual School Census by the LEA	Other agencies (including voluntary agencies) that hold relevant information to enable the LA department to carry out its statutory duty. Without the information they would not be able to carry out the particular function	Section 111 of the Local Government Act 1972, give LA's the power to do anything which is calculated to facilitate, or is conducive or incidental to the discharge of any of their functions"
Any Local authority Department	Because the local authority considers that with the information it can: (a) promote or improve the economic well-being in their area (b) promote or improve the social well-being of their area (c) promote or improve the environmental well-being of their area	Any other agency who holds relevant information	Section 2 of the Local Government Act 2000, which gives the LA "a power to do anything they consider is likely to achieve any one or more of the objectives" as set out in column 2. So long as there are no restrictions or prohibitions or limitations in other enactments, i.e. must be compatible with the requirements of the Data Protection Act and Human Rights Act and Common Law Duty of Confidence
Any Health Service within NHS	To provide a comprehensive health service in England and	Other NHS practitioners working within the Health	National Health Service Act 1977, Section 2

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	Wales to improve the physical and mental health of the population and to prevent and diagnose and treat illness	Service and practitioners from other agencies e.g. social care, who are carrying out health service functions that would otherwise be carried out by the NHS	
Any Health Service within NHS and Local Authority	In order for Health to exercise their Health Service functions and for the LA to exercise its functions in order to secure and advance the health and welfare of the people of England and Wales	Other NHS practitioners working within the Health Service and practitioners from other agencies e.g. social care, who are carrying out health service functions that would otherwise be carried out by the NHS	National Health Service Act 1977, Section 22
Any Local Authority; any Local Education Authority; any Local Housing Authority; Any Health Authority	Because it is felt that a child or young person or family is in need of services to safeguard and promote the welfare of a child or young person. Section 17 of Children's Act states a child is in need if: (a) He/she is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining a reasonable standard of health or development without the provision for him/her of services by a local authority under this part (b) His/her health or development is likely to be	Other agencies within this partnership who are involved with the child, young person or family and with any other agency that may provide the appropriate services (including voluntary agencies)	Children's Act 1989. Part III: <ul style="list-style-type: none"> Section 17 (1) (provision of service) <p>This places a general duty on every LA "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, by providing a range and level of services appropriate to those children's needs"</p> <ul style="list-style-type: none"> Section 27 (1)(2) and (3) (other agencies acting on behalf of the

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	<p>significantly impaired, or further impaired, without the provision for him/her of such services</p> <p>(c) He/she is disabled. "Family" includes any person who has parental responsibility for the child and any other person with whom he/she has been living</p>		<p>LA)</p> <ul style="list-style-type: none"> Section 17(5) (voluntary agencies) Section 17(10) and (11) (definition of a child in need) Section 2 Local Government Act 2000
Health Service	A child or young person has physical or mental health problems which require extra services	Any agency that can provide appropriate health services (that could be voluntary agency providing a health service)	National Health Service Act 1977, Section 1
Children's Services	<p>Because it is felt that another organisation could assist them to provide support for children in need and or their families.</p> <p>Any authority to whom such a request is made has duty to cooperate provided that the request is not incompatible with the performance of its own obligations or unduly prejudice the performance of their own functions</p>	Other local authorities, any local education authority, any local housing authority, any health authority	Children Act 1989, Section 27
Children's Services	Record involvement of agency with child or young person, investigate suitable service provision to improve the wellbeing of children so far as	Districts, Police, Probation, Youth Offending Team, any health authority, local education authority, schools, probation board, Youth	Children's Act 2004, Section 10 & 11

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	<p>relating to:</p> <ul style="list-style-type: none"> (a) physical and mental health and emotional wellbeing; (b) protection from harm and neglect; (c) education, training and recreation; (d) the contribution made by them to society; (e) social and economic well-being 	<p>Offending Team providers under section 114 Learning and Skills Act 2000; the governor of a prison or secure training centre in England (or, in the case of a contracted out prison or secure training centre, its director); the British Transport Police Authority; a person registered in England for child minding or the provision of day care; a registered social landlord; a voluntary organisation</p>	
Children's Services	<p>A Database:</p> <ul style="list-style-type: none"> (a) name, address, gender, DoB (b) a number identifying him/her (c) the name and contact details of any person with parental responsibility who has care of him/her at any time (d) details of any education being received by him /her (e) the name and contact details of any person providing primary medical services in relation to him/her under Part 1 of the NHS Act 1977 (c.49) (f) the name and contact details of any person providing 	<p>Districts, Police, Probation, YOT, any health authority, local education authority, probation board, YOT providers under section 114 Learning and Skills Act 2000</p>	<p>Children's Act 2004 Section 12 (1,2,3,4)</p>

	<p>to him/her services of which description as the SoS regulations specify (g) information as to the existence of any cause for concern in relation to him/her Information of such description, not including medical records or other personal records, as the SoS regulations specify</p>		
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HEALTH SERVICE

General functions/powers/duties

Section/Regulation	Description
<p>Section 1 National Health Service Act 1977</p>	<p>“1(1) It is the Secretary of State’s duty to continue the promotion in England and Wales of a comprehensive health service designed to secure improvement:</p> <ul style="list-style-type: none"> a) In the physical and mental health of the people of those countries, and b) In the prevention, diagnosis and treatment of illness, <p>And for that purpose to provide the effective provision of services in accordance with this Act”</p>
<p>Section 31 Health Act 1999</p>	<p>This section allows the Secretary of State to make regulations in connection with enabling the NHS bodies and local authorities to enter into prescribed arrangements in relation to prescribed functions on the NHS bodies and prescribed health-related functions of local authorities</p>
<p>NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000 (S.I.2000/617)</p>	<p>These regulations are made under s31 Health Act 1999 and allow NHS bodies and local authorities to enter into partnership arrangements in relation to the exercise of any NHS functions if the partnership arrangements are likely to lead to an improvement in the way in which those functions are exercised.</p>

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Adoption Agencies Regulations 1983 (S.I. 1983/1964)	Regulation 6(5) obliges the adoption agency to consult its medical adviser in relation to arrangements for access to and disclosures of health information which is required or permitted by virtue of regulation 15
NHS (General Ophthalmic Services) Regulations 1986 (S.I. 1986/975)	This requires opticians to keep records and imposes an obligation to disclose to the PCT or the Secretary of State on request
Section 47 Children Act 1989	S47(9) provides, “Where a local authority are conducting enquiries under this section, it shall be the duty of any person mentioned in subsection (11) to assist them with those enquiries (in particular by providing relevant information and advice) if called upon by the authority to do so”
Section 85 Children Act 1989	
Section 47 National Health Service and Community Care Act 1990	This section concerns the assessment of needs for community care. It provides that when a local authority is assessing need and it appears that there may be a need for health or housing provision, the local authority shall notify the PCT, Health Authority or local housing authority and invite them to assist, to such extent as is reasonable in the circumstances, in the making of the assessment
NHS (General Dental Services) regulations 1992 (S.I. 1992/661) Schedule 1 Para 25	These regulations place an obligation on dentists to keep records and to disclose to a PCT, the Secretary of State, the Dental Practice Board or a dental officer on request
Section 31 Health Action 1999	S31(3)(g) provides that regulations may make provisions as to the sharing of information between NHS bodies and local authorities
Section 60 Health and Social Care Act 2001	This allows for the SoS to make regulations in respect of the processing of prescribed patient information for medical purposes if he considers it necessary or expedient: a) In the interests of improving patient care, or b) In the public interest
Health Service (Control of Patient Information) Regulations 2002 (S.I. 2002/1438)	These regulations are made under 260 of the Health and Social Care Act 2001 and provide circumstances when confidential patient information may be processed for medical purposes