



*Safeguarding
is everybody's
business*

East Riding of Yorkshire Safeguarding Adults Board

Tier 2 Information Sharing Agreement

Audit and Assurance sub-group

FINAL VERSION



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Revision History:

Version	Date	Summary of Changes	Approved
Version 02.0	Feb 2016	Final Document Agreed	SAB

Agreement Number 002.AA
Review Date: February 2018

1. Introduction

1.1 The appropriate exchange of information is essential to deliver effective and efficient services to our citizens to meet their needs and ensure their welfare and protection. However there is a balance between the need to share sufficient information to deliver effective services, and preserving the privacy of the individual.

1.2 To assist understanding and the application of effective information sharing it is helpful to have locally agreed protocols identifying what can and cannot be shared, with whom, how and for what purposes.

1.3 The Tier 1 Information Sharing Charter provides the broad framework for the effective and secure sharing of information in accordance with legal requirements, ethical boundaries and good practice across the Humber region. All Safeguarding Adults Board members are signed up to the Tier 1 Charter. This can be found on the Humber data observatory website (<http://www.humberdataobservatory.org.uk/legal>).

1.4 A list of the current members of the Audit & Assurance sub-group, and therefore the partner organisations agreeing to this agreement can be found at Appendix 1.

2. Purpose of the Tier 2 Information Sharing Agreement

2.1 The Tier 2 Information sharing agreement identifies the operational requirements in place for the sharing of information for a **specific** and **lawful** purpose.

2.2 This Tier 2 Information Sharing Agreement is for the East Riding of Yorkshire ***Audit & Assurance Group*** only. This agreement creates a framework for the formal exchange of personal information and intelligence between the partners to the agreement referred to in section 8, for the purpose of enabling or assisting the SAB to exercise its functions.

3. Basis for the sharing of personal information

The sharing of **personal** information for the purpose of undertaking audit and assurance in accordance with this agreement is lawful under the following legislation:

3.1 **The Care Act 2014** which states (within **Section 43** of the act) that a Safeguarding Adults Board:

- Must seek to achieve its objective by co-ordinating and ensuring the effectiveness of what each of its members does;
- May do anything which appears to it to be necessary or desirable for the purpose of achieving its objective.

3.2 In addition the **Data Protection Act 1998** states that in order to share **personal** information the processing must be fair and lawful and comply with at least one condition from **schedule 2**. The one condition which applies is:-

- The processing is necessary for the exercise of a function of a public nature exercised in the public interest by any person

3.3 In addition the Data Protection Act 1998 requires that in order to share **sensitive personal** data (see Appendix 3) at least one additional condition from **Schedule 3** must apply. The schedule 3 condition which applies is:

- The processing is necessary to protect the vital interests of the data subject or another person, in a case where:-
 - i) consent cannot be given by or on behalf of the data subject, or
 - ii) the data controller cannot reasonably be expected to obtain the consent of the data subject.

4. The personal information to be shared

4.1 All or some of the data items contained in the list below may be shared with the Audit & Assurance sub group for the purpose of undertaking audit only and will not be used for any other purpose. All documentation which is shared for the purpose of audit and assurance must be relevant and proportionate to the audit and assurance process.

4.2 All members of the Audit and Assurance group will sign the agreed Code of Confidentiality at the start of each meeting and comply with the most recent agreed Terms of Reference.

4.3 Any supplementary information from partner agencies which is used for the audit and assurance will only be shared if it is proportionate and relevant to the audit and assurance process.

4.4 Information which may be shared as part of the audit and assurance process.

1. Details of the adult
Adult's name, address, telephone number, date of birth, gender, ethnicity, NHS Number.
Name, address & telephone number of the adult's GP.
Mental capacity of the adult.
Client group information
Type of abuse suffered
Chronology of contacts with services eg health, social care
Details of the concern or suspected abuse
2. Details of the person or agency suspected or alleged to have caused/allowed the abuse
Name, address, telephone number, date of birth, gender, ethnicity, NHS Number.
Details of the allegation.
3. Details of the enquiries undertaken by partner agencies into allegations of adult abuse and the outcomes of such enquiries.

5. Processing of Personal information

5.1 Personal information will be shared and processed by the partners in accordance with the Data Protection Act.

5.2 It is the responsibility of each partner agency to ensure staff understand the importance of protecting personal data, that they are familiar with the organisations security policy and that they put its security procedures into practice. Partner agencies should ensure staff have undertaken Data Protection training which covers their duties under the Data Protection Act.

5.3 All information shared under this agreement, personal or otherwise, must only be used for the purpose(s) specified at the time of disclosure as defined in the relevant data sets/lists unless obliged under statute or regulation, or under the instructions of a court.

5.4 The data shared under this agreement must NOT be used for any other purpose that is not undertaken by the Audit and Assurance subgroup. Where a partner receiving information under this agreement, wants to use that information for any other purpose, they must seek and receive permission from the original data controller before using the information for that further purpose. Further use of the information undertaken without the permission of the data controller will not be lawful or covered by this agreement.

5.5 In the unlikely event that the Audit and Assurance Group identifies the need to share the information wider than that for conducting an audit, the personal data may need to be shared with other agencies that are not part of the group in exceptional circumstances only.

5.6 Any data breaches involving shared data which is used for any other purpose than that described under this agreement will be reported and investigated internally to the organisation that has caused the data breach. The outcome of the investigation will be reported to the Safeguarding Adults Board.

5.7 The Data Protection Notification and Privacy Notice of each partner must reflect the processing of personal information under this agreement, to ensure that data subjects are fully informed about the information held about them and to their rights to gain access to information held about them and to correct any factual errors that may have been made. If there are statutory grounds for restricting a data subjects access to the information held about them, they will be told that such information is held and the grounds on which it is restricted. Where opinion about a data subject is recorded and they feel the opinion is based on incorrect factual information, they will be given the opportunity to correct the factual error and/or record their disagreement with the recorded opinion.

5.8 In the unlikely event that the Audit and Assurance subgroup receives a Subject access request, the request will be discussed with the most relevant agency which the

request relates to and a response will be made within the 40 day timeframe. The SAB will need to respond if the relevant agency has destroyed the information as per 7.3.

5.9 Complaints will be handled in accordance with the standard procedures of the partner who receives the complaint.

5.10 The personal information shared under this agreement must be relevant and proportionate to achieve the purposes identified in section 2.2. Only the minimum necessary personal information will be shared and where possible aggregated non-personal information will be used.

5.11 The information shared must be shared using the secure email method ONLY, such as a government connect account or other in-house secure site such as gcx or nhs.net and must not be shared outside the membership of the group.

5.12 It is the responsibility of individual group members to bring their own papers to each meeting, photocopies of the information shared will not be supplied at meetings.

5.13 The information shared should be complete (but not excessive), accurate and up-to-date to ensure all partners are assured that the information can be used for the purposes for which they require it.

5.14 The data controller must make all partners they share information with aware of their rules on data retention and whether these apply to the data being shared at the time of disclosure. The information must be securely disposed of when no longer required for the purpose it was shared or to meet any legal or audit obligation. (See section 7).

6 Roles and responsibilities under the agreement

6.1 Each partner must appoint a single point of contact who must work together to jointly manage the valid and legally justified sharing of personal information for the purposes of this agreement; ensure the accuracy of the information shared; deal with data discrepancies; and ensure breaches are reported and investigated. The data controller for each agency is listed as Appendix 2.

7 Retention and Disposal

7.1 This section does **not** apply to any data which would ordinarily be held on adults by the member organisations, it applies to data which is shared with other agencies for the purpose of undertaking audit and assurance only.

7.2 There is no requirement for partner agencies to retain the information shared after the conclusion of each meeting at which the information is discussed. The SAB Manager will ensure that an electronic reference file of information shared at each meeting is retained so that should it be required to be accessed at a later date the information can be retrieved.

7.3 Partner agencies are therefore required to destroy all paper copies of information by shredding at the conclusion of each meeting and to delete electronic records from computers and other storage systems used.

8 Organisations party to this agreement

8.1 All organisations who are a member of the Safeguarding Adults Board are party to this agreement. Information about the SAB including the constitution and Terms of Reference can be found on their website www.ersab.org.uk.

Each organisation should accept responsibility for its execution and agree to ensure all staff are trained so that requests for information and the process of sharing information itself is sufficient to meet the purposes of this agreement.

8.2 Organisations must all ensure that they comply with all relevant legislation in the processing of personal information.

9. Implementation, review and termination of this agreement

- a) This agreement comes into force from *February 2016*.
- b) This agreement will be reviewed on a bi-annual basis or earlier should there be new relevant legislation; the date of the next review is *February 2018*.
- c) The agreement can be suspended by any party in the event of a serious security breach. The suspension will be subject to a risk assessment and resolution meeting between representatives of the partners, which should take place within 10 working days of any suspension.
- d) Termination of this agreement must be in writing giving at least 30 days' notice to the other partners.
- e) If a new partner joins the agreement, a new version of the agreement will be issued as soon as possible, certainly within one month, and circulated to all participating parties.
- f) If a partner leaves the agreement, a new version of the agreement will be issued as soon as possible, certainly within one month, to all participating parties.
- g) Each partner organisation will keep each of the other partners fully indemnified against any and all costs, expenses and claims arising out of any breach of this agreement and in particular, but without limitation, the unauthorised or unlawful access, loss, theft, use, destruction or disclosure by the offending partner (or its employees) of any personal data obtained in connection with this agreement.

Current list of Audit and Assurance sub group members (as at Dec 2015)

NAME	AGENCY	POSITION
Kate Rudston (Chair)	Hull & East Yorkshire NHS Trust	Assistant Director of Nursing
Marie Chappell (Vice Chair)	East Riding Safeguarding Adults Board	Policy and Practice Development Officer
Anita Morley	East Riding Council Adult Services	Safeguarding Adults Team Manager
Kaye Iveson	East Riding Safeguarding Adults Board	Training Coordinator
Debbie Johnson	Humber Foundation Trust	Specialist Safeguarding Practitioner (adults)
Olwen Fisher	East Riding of Yorkshire CCG	Designated professional for adult safeguarding
Dr Elisabeth Alton	East Riding of Yorkshire CCG	GP representative for adult safeguarding
DI Emma Heatley	Humberside Police	Detective Inspector
Nicola Cowley	York NHS Foundation Trust	Lead Nurse for adult safeguarding
Michael Griffiths	Northern Lincolnshire & Goole NHS Foundation Trust	Lead Nurse for adult safeguarding

Current list of Data Controllers for each representative agency (As at 1st Nov 2015)

NAME	AGENCY
Kevin Phillips	Hull & East Yorkshire NHS Trust
Mathew Buckley (on behalf of ERYC)	East Riding Safeguarding Adults Board
Mathew Buckley	East Riding Council Adult Services
Hilary Gledhill	Humber Foundation Trust
Paula South/Richard Dodson	East Riding of Yorkshire CCG
Richard Heatley	Humberside Police
Fiona Jamieson	York NHS Foundation Trust
Wendy Booth	Northern Lincolnshire & Goole NHS Foundation Trust

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Data Protection Act 1998

Sensitive Personal data

In this Act “sensitive personal data” means personal data consisting of information as to:

- (a) the racial or ethnic origin of the data subject,
- (b) his political opinions,
- (c) his religious beliefs or other beliefs of a similar nature,
- (d) whether he is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- (e) his physical or mental health or condition,
- (f) his sexual life,
- (g) the commission or alleged commission by him of any offence, or
- (h) any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.

Human Rights Act 1998

This Act should be taken into account in establishing whether the purpose of information exchange is lawful. The Human Rights Act 1998 gives further effect in domestic law to Articles of the European Convention on Human Rights (ECHR). The Act requires all domestic law to be compatible with the Convention Articles. It also places a legal obligation on all public authorities to act in a manner compatible with the Convention. Should a public authority fail to do this then it may be subject to a legal action under section 7 of the Act. This obligation should not be seen solely in terms of an obligation not to violate Convention Rights but also as a positive obligation to uphold these rights.

Article 8 of the Act is of particular relevance to information sharing as this relates to “the right to respect for private and family life”.

Article 8 of the Human Rights Act states that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with this right except as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of crime and disorder, for the protection of health or morals, or for the protection of the rights and freedoms of others.

The exchange of information described in this agreement will be for the purposes of one of these legitimate aims.

Briefing Note – Statutory Powers for Sharing Information

Some legislation includes explicit “gateways” by which information can be disclosed or received for particular purposes. Such gateways may be permissive (creating a discretionary power to disclose or receive data) or mandatory (requiring data to be transferred in certain circumstances).

Examples of statutory gateways for the purpose of protecting vulnerable adults at risk of harm or abuse, include:

Local Safeguarding Adults Board (LSAB)

The LSAB is a statutory board, and requires all organisations that work with vulnerable adults at risk of harm to cooperate to safeguard and promote the welfare of adults.

The core legislation underpinning the work of the LSAB is the Care Act 2014, which provides a framework for how agencies should work together to protect the most vulnerable adults in our society. The Care Act is also supplemented by detailed guidance which includes information on; undertaking enquiries into cases of abuse and neglect, the role and function of the SAB, undertaking SARs and the supply of information.

Under section 45 of the Care Act 2014 the SAB can require a person or body to comply with a request for information. This can only take place where the information is essential to carry out SAB statutory functions. When making a request for information about individuals, the SAB will only ask for information that is “necessary” and “proportionate” to the reasons for the request.

References;

Humber Information Sharing Charter v07; Humber Data Observatory

The Care Act 2014. Section 14 www.legislation.gov.uk

The Human Rights Act 1998 www.legislation.gov.uk

Data Protection Act 1998 Schedules 2&3; www.legislation.gov.uk

The Information Governance Review; March 2013; Fiona Caldicott

Adult Safeguarding: Sharing Information; Jan 2015; Social Care Institute for Excellence

Information Sharing Policy – personal information; Aug 2014; NHS England

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