



Tudor Medical
Matters

**Safeguarding:
Information Sharing and Whistleblowing**

**To be reviewed:
January 2020**

Information Sharing:

Rules to Sharing Information within an Agency

The welfare of the vulnerable adult/child must be the first consideration in all decision making about information sharing. Professionals can only work together to safeguard and promote the welfare of vulnerable adults/children if they share relevant information

- Only share as much information as is needed to make a decision – but share enough to achieve the purpose for which information is being shared
- It is good practice to get consent to share information every time. The exception to this is where a professional has a duty to share the information
- Where someone would be put at risk of serious harm
- A Police investigation into a serious offence would be damaged
- You should make sure people know what is happening to their information and that they have the right to see it if they ask to do so
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Sharing Information between Agencies

There is little difference in the rules about sharing information in an agency or with another agency. The person giving consent might think that the information will not be shared with other agencies. It is always good practice, therefore, to tell them.

If someone has asked for something confidential to be kept from others within an agency a decision has to be made about whether it is serious enough for information to be shared with someone else.

Sensitive and Non-Sensitive Information

The Law defines sensitive personal information as information about the person's:

- Physical or mental health or condition
- Racial or ethnic origins
- Political opinions
- Membership of a trade union
- Religious beliefs
- Sexual life
- Criminal offences

Any other information that identifies a person is non-sensitive information.

If you do not have consent there are different rules for when you can share sensitive and non-sensitive information. If none of the reasons below for sharing information apply, you must get consent before sharing information.

Rules for Sharing Sensitive Information without Consent:

If you are considering sharing sensitive information without consent, make sure that one of the following applies:

- It is necessary to protect someone's 'Vital Interests' and the person to whom the information relates lacks the capacity to consent (see Safeguarding: Adult), OR if they are unreasonably withholding consent OR if consent cannot reasonably be expected to be obtained 'Vital interests' generally applies to life and death situations and serious and immediate concerns for someone's safety.
- It is necessary to perform a legal duty given to an agency under an Act of Parliament, e.g. the prevention of crime, Sectioning under the Mental Health Act.
- It is necessary to establish, exercise or defend legal rights. This includes rights under the Human Rights Act 1998. (This is mainly used by Solicitors when they are preparing a case)
- It is in the 'Substantial Public Interest'. (This would include, for example, a voluntary or community agency who have information that someone may be at risk of harm) and necessary to prevent or detect an unlawful act and obtaining consent would prejudice those purposes

Rules for Sharing Non-Sensitive Information without Consent:

If you are considering sharing non-sensitive information without consent, make sure that one of the following applies:

- The information does not allow the individual to be identified, eg, in requesting a second opinion/general advice about the availability of services or future actions or sharing statistical information
- The need to protect the person's 'Vital Interests' overrides the need for confidentiality
- It is a requirement of a Court Order which is made available
- It is necessary to help detect or prevent a crime
- It is necessary to perform a legal duty given to an agency under an Act of Parliament
- It is necessary to perform a public function undertaken in the public interest, e.g. voluntary or community agency have information that would promote an adult's welfare

The person should be told before the information is shared, unless:

- This would place someone at risk
- Prejudice a Police investigation
- Lead to unreasonable delay

If one of these applies, let the person know the information has been shared as soon as it is safe and possible to do so.

Before sharing information:

Make sure that:

- Information is given to the right person
- The person understands the information is confidential and knows what to do with it
- A record is kept of what has been shared, when and with whom, and why. This should be noted on case records
- Correspondence is marked 'Private and Confidential for Addressee Only' or similar
- The addressee is aware that the information is being sent and is asked to tell us when they have received it

The following should be noted if information is asked for over the telephone:

- The name, job title, department and agency of the person making the request
- Reason for the request
- Main switchboard telephone number
- Check whether information can be provided. If in doubt the person who is asking for the information should be phoned back Information must only be provided to the person who has asked for it. Record all detail.
- Make sure that the way information is shared respects the dignity of the person, eg do not share information in a public area.

Information Sharing Checklist:

Before sharing personal information ask yourself:

Question:	Check:
Do I have the right to share this information (legal duty or power)?	
Do I need informed consent to share this information?	
Is the information sensitive personal information?	
Whose consent is needed? Whose information is it? (Child, vulnerable adult)	
Would seeking consent or informing about sharing information place someone at risk / prejudice a Police investigation / lead to unreasonable delay?	
Does the person who is giving consent understand the possible results of sharing the information?	
Would sharing the information without consent cause more harm than not sharing the information?	
About the information you are sharing:	
How much information is it necessary to share in this situation?	
Have I separated out fact and opinion?	
Do I need to check with someone else who told me this information or wrote this report before I share it?	

About the Person You Are Sharing Information with and How You Are Sharing It	
Am I giving this information to the right person?	
Am I sharing this information in a safe way?	
Does the person I am giving it to know it is confidential?	
What will they do with it?	
After sharing information ask yourself...	
Does the person know that the information has been shared? (Where this would not place someone at risk or prejudice a Police investigation)	
Have I recorded what has been shared with whom and why on case records?	

Whistleblowing:

A 'whistle-blower' is an employee who reports certain types of wrongdoing, which will usually be something at their workplace - though not always. Whistleblowing exposes any kind of information or activity that is deemed illegal, unethical, or not correct within an organization that is either private or public. The wrongdoing being disclosed must be in the public interest, which means it must affect others (eg. the general public).

A whistle-blower is protected by law and shouldn't be treated unfairly or lose their job because they 'blew the whistle'. As an employee, you can raise your concern at any time about an incident that happened in the past, is happening now, or you believe will happen soon.

Complaints that count as whistleblowing, and mean that you would be protected by law, include:

- A criminal offence (eg. fraud)
- Someone's health and safety is in danger
- Risk or actual damage to the environment
- A miscarriage of justice
- The company is breaking the law (eg. doesn't have the right insurance)
- You believe someone is covering up wrongdoing

Complaints that wouldn't count as whistleblowing, include personal grievances such as bullying, harassment and/or discrimination. These aren't covered by whistleblowing law, unless the case would be in the public interest. These complaints should be reported under the Tudor Medical Matters 'Grievance Policy'. Or the employee can contact the Advisory, Conciliation and Arbitration Service (ACAS) for help and advice on resolving a workplace dispute.

Who to tell and what to expect:

You can tell your employer - they may have a whistleblowing policy that tells you what to expect if you report your concern to them. You can still report your concern to them if they don't have a policy.

There are other options if you don't want to report your concern to your employer, eg. you can get legal advice from a lawyer, or tell a prescribed person or body.

If you tell a prescribed person or body, it must be one that deals with the issue you're raising, eg. a disclosure about wrongdoing in a care home can be made to the Care Quality Commission.

You can tell your employer or a prescribed person anonymously, but they may not be able to take the claim further if you haven't provided all the information they need. You can give your name but request confidentiality - the person or body you tell should make every effort to protect your identity.

If you are not satisfied with how your employer treats your concern, tell someone else (such as a more senior member of staff) or a prescribed person or body if you believe your concern wasn't taken seriously or the wrongdoing is still going on. Contact the Advisory, Conciliation and Arbitration Service (ACAS), the whistleblowing charity Public Concern at Work or your trade union (if applicable) for more guidance.

After whistle-blowing:

You can take a case to an employment tribunal if you've been treated unfairly because you've blown the whistle. You can get further information from the Advisory, Conciliation and Arbitration Service (ACAS), Citizens' Advice, the whistleblowing charity Public Concern at Work or your trade union.

If you reported your concern anonymously, you may find it harder to argue that your unfair treatment was because of your whistleblowing. You must raise any claim of unfair dismissal within 3 months of your employment ending. You must notify ACAS if you want to take your case to an employment tribunal

For more information:

GovUK: <https://www.gov.uk/whistleblowing>

ACAS: <http://www.acas.org.uk/index.aspx?articleid=1919>