

Dear Community Planning Partnership Managers

Information sharing between services – guidance and clarity

I am writing to you in my capacity as Chair of the Getting it right for every child (GIRFEC) Programme Board because I want to share an important clarification about information sharing between services.

The GIRFEC Programme Board and Ken MacDonald, the Assistant Information Commissioner for Scotland (ICO), have agreed a short guidance paper which dispels the common misconception that the Data Protection Act (1998) is a reason not to share information.

It will be important reading for:

- Professionals who work with children and young people
- Professionals who work with adults who impact on the lives
- Senior managers and data controllers

Information sharing between services is vital to ensure that our children's life chances are maximised, and that Scotland is the best place to grow up in.

Whilst the ICO in its capacity as a regulator does issue substantial penalties for breach Data Protection breaches, they emphasised these penalties are aimed at systemic failures and not practitioners making good faith decisions to share information in the best interests of children.

The paper tells you how to balance concerns about 'fair processing' with making the decision to share: please circulate it around chief officers within your Community Planning Partnership.

If you need further advice, please contact Boyd McAdam, Head of the Better Life Chances Unit at the Scottish Government on 0131 244 5320.

Thank you.

Yours faithfully

Martin Crewe
Chair of the Getting it right for every child Programme Board
c/o Life Chances Unit, Children's Rights and Wellbeing
The Scottish Government
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Attached – Information sharing between services – guidance from Information Commissioner and the GIRFEC Programme Board

INFORMATION SHARING BETWEEN SERVICES: GUIDANCE FROM THE INFORMATION COMMISSIONER AND THE GIRFEC PROGRAMME BOARD

There is currently some lack of clarity in practice about when it is permissible to share information and when it isn't.

Anecdotal evidence suggests that compliance with the Data Protection Act (1998) is being used as a reason not to share information between services even though there may be a concern about a child or young person's well-being.

We want to be clear that the Data Protection Act (1998) is designed to assist information sharing, while also protecting the right of the individual to have their data fairly processed.

GIRFEC is based on eight indicators of well-being – safe, healthy, achieving, nurtured, active, respected, responsible and included. In many cases, a risk to well-being can be a strong indication that the child or young person could be at risk of harm if the immediate matter is not addressed.

Because GIRFEC is about early intervention and prevention it is very likely that information may need to be shared before a situation reaches crisis. In the GIRFEC approach, a child's Named Person may have concerns about the child's well-being, or other individuals or agencies may have concerns that they wish to share with the Named Person.

While it is important to protect the rights of individuals, it is equally important to ensure that our children are protected from risk of harm.

Where there is any risk of the child or young person being on a pathway that may lead to harm, the decision should always be to share.

The Data Protection Act (1998) says that an individual's data should be processed fairly. The issue of obtaining consent can be difficult and it should only be sought when the individual has real choice over the matter and the proposals should be clear about those circumstances which may necessitate processing without consent. Where required, consent should be fully informed and freely given. Where circumstances exist where consent may not be appropriate, the Act provides conditions to allow processing to proceed.

If information is likely to be shared to safeguard and promote a child's well-being, the child, family third party should be told that information appropriate will be shared and consent should not be offered as an option.

It is very important that the practitioner uses all available information before they decide whether to share or not. Experience, professional instinct and other available information will all help with the decision making process.

If there is any doubt, then invariably the decision should be to share.

It's vital that the practitioner records the decision they have made – including the rationale behind making it. If the decision were to be challenged, they would need to have an accountable record that they made the decision in good faith and in the child's best interests.

Please share this information with employees, colleagues and partners, endorsing its content.

Information sharing between services is vital to ensure that our every child's life chances are maximised, and we can describe Scotland as the best place to grow up.

Martin Crewe
Chair, GIRFEC Programme Board

Ken MacDonald
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Further information

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