**Scottish Accord on the**

**Sharing of Personal Information**

**Information Sharing Protocol for**



**Version 2**

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| **Contents**  | **Page No** |
| **Part A – Introduction to this ISP** |  |
| **1** | **Scope and purpose of this ISP** |  **3** |
| **2** | **High level functions of this ISP** |  **4** |
| **3** | **Service users included in this ISP** |  **4**  |
| **4** | **Benefits to Service Users** |  **4** |
| **5** | **Details of personal information being shared** |  **5** |
| **6** | **Key identification information** |  **5** |
| **7** | **The information sharing partner organisations** |  **6** |
| **Part B – Justification for sharing personal information** |  |
| **8** | **Legislative/statutory powers** |  **7** |
| **9** | **Consent** |  **7** |
| **Part C – Operational procedures for this ISP** |  |
| **10** | **Summary** |  **9** |
| **11** | **Fair processing information** |  **9** |
| **12** | **Obtaining consent** | **10** |
| **13** | **Refused and withdrawn consent** | **10** |
| **14** | **Recording consent** | **11** |
| **15** | **Sharing information without consent** | **11** |
| **16** | **Action to be taken where subject lacks mental capacity** | **11** |
| **17** | **Temporary impairment of capacity** | **11** |
| **18** | **Information collection** | **11** |
| **19** | **Frequency of information sharing** | **12** |
| **20** | **Retention Schedules** | **12** |
| **21** | **Subject Access Requests** | **12** |
| **22** | **Information security** | **12** |
| **23** | **Complaints** | **12** |
| **24** | **Review of this ISP** | **12** |
| **Part D – methods and controls for the sharing of personal information to support this ISP** |  |
| **25** | **Information flow reference table** | **13** |
| **Appendix A** |  |
| **26** | **Information which can be shared under this ISP** | **14** |

**Part A – Introduction to this ISP**

1. **Scope and purpose of this ISP**

This Information Sharing Protocol (ISP) is supplementary to the Scottish Accord on the Sharing of Personal Information (SASPI), and has been agreed between the participating partner organisations. Partners have given consideration to its contents when drawing up this document.

This ISP has been prepared to support the regular sharing of personal information for the support and protection of adults at risk of harm, as defined in the Adult Support and Protection (Scotland) Act 2007. (ASPA)

It supports the information sharing partner organisations involved and the groups of

Service Users it impacts upon. It details the specific purposes for sharing and the

personal information being shared, the required operational procedures, consent

processes, and legal justification.

The aims of the information are to comply with the (ASPA), specifically;

* To report the facts and the circumstances to the Council (Social Work Service) of any case, where the public body (or office holder) knows or believes that a person is an adult at risk and that action needs to be taken to protect that person from harm. (Section 5, ASPA)
* The Council (Social Work Service) has a duty to make inquiries where it knows or believes that an adult is at risk of harm and that there may be a need to intervene in order to protect the person’s wellbeing, property or financial affairs. (Section 4 ASPA)
* To co-operate with the Council making inquiries about a person’s wellbeing, property or financial affairs, and with other partner agencies, where this cooperation is likely to assist the Council making inquiries. (Section 5 ASPA)

This Information Sharing Protocol covers the exchange of information betweenFife

Council, Police Scotland P Division, NHS Fife and Health and Social Care

Partnership who have a duty to cooperate as outlined above. In addition the Public

Guardian, Mental Welfare Commission and Care Inspectorate are named in the Act

and also have a duty to cooperate with APCs across Scotland. Other agencies

covered by this ISP but not named in the Act are Scottish Fire and Rescue Service

and agencies with contracts with Fife Council or NHS Fife to provide care and

support services.

This information may also be shared to support the effective administration, self-evaluation audit, monitoring, inspection of services and reporting requirements as outlined in the aims of the APC above. Partners may only use the information disclosed to them under this ISP for the specific purpose(s) set out in this document.

**To Contents**

1. **High level functions of this ISP**

The APC functions which this information sharing protocol community are

seeking to support involve:

* Keeping under review the procedures and practices of the public bodies and office holders which relate to the safeguarding of adults at risk (including, in particular, any such procedures and practices which involve co-operation between the Council and others named).
* Giving information or advice, or make proposals on the exercise of functions which relate to the safeguarding of adults at risk.
* Making, or assist in or encourage the making of, arrangements for improving the skills and knowledge of those who have responsibilities relating to safeguarding of adults at risk.

Personal information shared to support functions other than those detailed in this document are not supported by this ISP.

1. **Service Users included in this ISP**

The Service Users which this ISP relates to include;

* Adults aged 16 or over, who;
	+ Are unable to safeguard their own well-being, property, right or other interests
	+ Are at risk of harm, and
	+ Because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults not so affected.
1. **Benefits to Service Users**

Benefits to the Service Users include:

* The ASPA has a set of principles, of which the overarching ones indicate that any intervention must provide benefit to the adult, and of the range of options likely to fulfil the intervention, the least restrictive should be implemented.
* The ISP will encourage sharing of information and inter-agency co-operation which will assist with timely recognition, reporting and responding to harm and allegations of harm.
* The information shared during self-evaluation audit exercises and through Significant Case Reviews will benefit service users as a consequence of a process of evidence driven continuous improvement.

 **To Contents**

1. **Details of personal information being shared**

Personal information shared for the purpose of this ISP includes a range of information regarding the Service User’s needs:

* The information shared might therefore include:
	+ Demographics and other identifiers
	+ Name
	+ Address
	+ Contact Details
	+ Gender
	+ DOB
	+ CHI Number
* Additional information could include:
	+ Incidents involving adults at risk
	+ Concerns regarding any aspect of the care and well-being of adults at risk
	+ Financial details/information
	+ Medical or Health information

Any of the above may include confidential details of relevant individuals involved, including health or social care professionals, staff members, patients, carers or other members of the public. Full details of the information which is covered by the ISP is included in [Appendix A](#A).

The information is used to establish if the adult in question is an adult at risk of harm and there is a statutory requirement to intervene in order to protect the adult’s wellbeing, property or financial affairs. Once established, the duty of co-operation and sharing of information extends through investigation and includes development

of a risk management plan.

Onlythe **minimum necessary** personal information consistent with the purposes set out in this document must be shared.

1. **Key identifying information**

When sharing information, the following identifiers will be used where available, to ensure that all partner organisations are referring to the same Service User:

* Name
* Address
* Date of birth
* GP name and address

**To Contents**

1. **The information sharing partner organisations**

This ISP covers the exchange of information between staff of the following organisations that are engaged in delivering the service outlined in this document:

|  |  |
| --- | --- |
| **Information Sharing Partner Organisations** | **APC Lead Representative** |
| Fife Council, Health and Social Care Partnership | Julie Paterson |
| Fife Council, Housing and communities | Paul Short |
| Fife Council, Trading Standards | Katherine Hart |
| NHS Fife | Morag Gardner |
| Police Scotland P Division | John Anderson |
| Scottish Fire and Rescue (East) | Steven Michie |
| Not for Profit Care Providers | Rachel Webb |
| Private Sector Care Providers | Janice Cameron |
| Care Inspectorate | Richard Fowles |
| Mental Welfare Commission | Dr Steven Morgan |

The responsible managers detailed above have overall responsibility for this ISP within their own organisations, and must therefore ensure the ISP is disseminated, understood and acted upon by relevant staff, including those contracted to supply care and support services.

Staff of these partner organisations who work directly with Service Users in order to carry out the functions described in this ISP, are bound by this document.

The term ‘staff’ encompasses paid workers, volunteers, students and other temporary workers approved by the employing / hosting organisation, whose duties include those relating to the functions outlined in this ISP.

Partner organisations will ensure that all current and newly-appointed staff receive appropriate training in the application of this ISP and the requirements of the SASPI framework.

**To Contents**

**Part B – Justification for sharing personal information**

**Staff should not hesitate to share personal information in order to prevent harm. If there are concerns relating to child or adult protection issues, the relevant organisational procedures must be followed.**

[**www.fifedirect.org.uk/adultprotection**](http://www.fifedirect.org.uk/adultprotection) **for details**

1. **Legislative / statutory powers**

Disclosure of information will be conducted within the legal framework of the Data Protection Act 1998 (DPA), the Human Rights Act 1998 and in compliance with the common law duty of confidence.

The Adult Support and Protection (Scotland) Act 2007 (ASPA) makes explicit the reasons and circumstances under which co-operation and information must be shared in order to identify, support and protect adults at risk of harm.

Offences: the ASPA includes offences which apply in relation to failure to share information or failure in co-operation;

* Obstruction: a person commits an offence by, without reasonable excuse, preventing or obstructing any other person from carrying out their authorised role in relation to assessment, removal, banning or temporary banning orders and related warrants for entry.

Failure to share information: it is an offence to, without reasonable excuse, refuse or otherwise fail to comply with a requirement to share records. This does not apply to the adult at risk.

These offences carry convictions of a fine, imprisonment not exceeding 3 months or both.

1. **Consent**

**For the purposes of this ISP, no consent will be required from Service Users at the point of initial reporting of harm through the Cause for Concern process or during the Inquiry process as outlined in section 4 of the Adult Support and Protection (Scotland) Act 2007.**

Consent is normally required to share information between different partner organisations. To provide valid informed consent the Service Users or their lawful representatives, must be provided with appropriate information to enable them to make an informed decision.

Implied consent is given when a Service User takes, or does not refuse, some action, including making a judgement, in the knowledge that in doing so he or she has incidentally agreed to a particular use or disclosure of information.

**To Contents**

Explicit consent is given by a Service User agreeing actively, either verbally or in writing, to a particular use or disclosure of information. It can be expressed either verbally or in writing, although written consent is preferable since that reduces the scope for subsequent dispute.

Consent must not be secured through coercion or inferred from a lack of response to a request for explicit consent. The Practitioner must be satisfied that the Service User has understood the information sharing arrangements and the consequences of providing or withholding consent.

Consent should not be regarded as a permanent state. Opportunities to review the Service User’s continuing consent to information sharing should arise during the course of the service provision. The Practitioners should exercise professional judgement in determining whether it would be appropriate to re-visit a Service User’s continued consent at any given juncture. Ideally it should take place in the context of a review or re-assessment.

**To Contents**

**Part C – Operational procedures for this ISP**

1. **Summary**

Only the minimum necessary personal information will be shared on a **need-to-know** basis and only when it supports the delivery of the purposes and functions set out in this ISP.

Personal information will only be collected using the approved collection methods, ensuring the required information is complete and up-to-date.

All reasonable steps must be taken to ensure that anyone who has received information is notified of any relevant changes and if any inaccuracies are found the necessary amendments will be made.

Decisions about Service Users should never be made by referring to inaccurate, incomplete or out-of-date information.

Information provided by partner organisations will not be released to any third party without the permission of the owning partner organisation.

Staff must also follow their own organisation’s procedures relating to the handling of personal information.

**Staff should not hesitate to share personal information in order to prevent harm.** **If there are concerns relating to child or adult protection issues, the relevant organisational procedures must be followed.**

[**www.fifedirect.org.uk/adultprotection**](http://www.fifedirect.org.uk/adultprotection) **for details**

1. **Fair processing information**

It is necessary to communicate with the Service User or their lawful representatives about the need for information sharing at the earliest appropriate opportunity, preferably at first contact.

Being clear and open with Service Users about how their personal information will be used, will allow them to make an informed decision regarding consent for the sharing of their information.

Each organisation will have in place procedures for communicating with service users whose first language is not English, BSL users and those with a learning disability or other communication needs.

Partner organisations will clearly inform the Service Users about what personal information is to be shared, who the information will be shared between, why it needs to be shared and for what purposes it will be used for.

Agreed methods of providing this information are:

* Verbally, at point of contact, where this is possible and will not put the adult at increased risk of harm.

**To Contents**

1. **Obtaining consent**

**For the purposes of this ISP, no consent will be required from Service Users at the point of initial reporting of harm through the Cause for Concern process or during the Inquiry process as outlined in section 4 of the Adult Support and Protection (Scotland) Act 2007.**

Consent is not required to report harm as there is a statutory duty to inform the Council Social Work Service of any adult known or believed to be an adult at risk.

The approach to obtaining consent should be transparent and respect the Service User.

Once it is established that the adult is an adult at risk and there is a duty to intervene to safeguard the adult from harm it is important to share concerns and proposed interventions with the adult to agree how to proceed, taking account of the principles in the ASPA.

Partner organisations should be prepared to be open with their Service Users about the role that their consent plays in the information sharing process and indeed be clear about the type of circumstances in which they may share personal information without their knowledge or consent.

If there is a significant change in the use to which the information will be used compared to that which had previously been explained, or a change in the relationship between a partner organisation and the Service User, then consent will be sought again.

Consent obtained from Service User’s for the purposes of this ISP will only be used to support the delivery of the purposes and functions set out in this document. Once the service provision of this specific ISP concludes, then consent obtained will also end. In the event of a similar or subsequent service provision undertaken in the future, new consent will be obtained.

Staff should use opportunities such as reviews or assessments to reaffirm the Service User’s consent to the sharing of information outlined in this ISP.

1. **Refused and withdrawn consent**

**For the purposes of this ISP, no consent will be required from Service Users at the point of initial reporting of harm through the Cause for Concern process or during the Inquiry process as outlined in section 4 of the Adult Support and Protection (Scotland) Act 2007**

A Service User has the right to refuse their consent to have information about them shared. They also have the right to withdraw previously granted consent at any point, to the sharing of their information. Further personal information should not then be shared.

Where the Service User has refused or withdrawn consent, the implications of withholding consent will be clearly explained to them and this dialogue will be recorded in the Social Work Information System service user profile notes.

**To Contents**

If a Service User withdraws consent to share personal information it will also be explained that information already shared cannot be recalled. See section 15 below, for further information.

1. **Recording consent**

Decisions regarding Service Users’ consent of how and when it was obtained and whether it was provided in verbal or in written form, must be recorded in social work information system service user profile notes and where relevant in multi-agency adult case conference minutes.

Details of refused or withdrawn consent should also be recorded together with any subsequent reviews of consent.

1. **Sharing information without consent**

Staff have a duty to disclose personal information without consent in order to report harm. If there are protection concerns relating to a child or other adults, staff must follow the relevant local procedures of their partner organisation.

Personal information can be lawfully shared without consent in exceptional circumstances; where there is a legal requirement and where there is a substantial over-riding ‘public interest’. For example there can be a public interest in disclosing information to protect individuals or society from risks of harm, such as serious communicable diseases or crime.

If a claim of substantial public interest is made, justification will be clearly stated and any decision to share information with another party without the consent of the Service User will be fully documented in the case file as per the local procedures of each partner organisation. This note will include details of the legal requirement used and details of the member of staff who authorised the sharing.

The Service User will usually be informed of this decision and of the information which has been shared; unless by doing so it would risk harm to others or hinder any investigation or legal proceedings.

1. **Actions to be taken where a Service User lacks capacity**

Whenever dealing with issues of capacity to consent, local rules and procedures should be followed and these must be compatible with the Adults with Incapacity (Scotland) Act 2000 and its associated guidance.

1. **Temporary impairment of capacity**

Where a person has a temporary loss of capacity, consent will be deferred, if appropriate, until such time as consent can be obtained. Consent to share information will be sought when capacity is regained.

Where it is not appropriate to defer the sharing of information, then it will not be appropriate to defer consent, as consent cannot be obtained retrospectively.

Therefore, only where deemed necessary, may information be shared without consent, see section 16 above for further information.

**To Contents**

1. **Information collection**

The approved collection tools for partner organisations to gather the personal information detailed in this ISP are:

* Each organisation uses specific data collection methods and examples of these are detailed below:
	+ SWIFT/AIS – Fife Council Social Work
	+ MIDIS – NHS Fife
	+ Local forms
	+ Housing applications and case files – Housing Services
	+ Service providers client paper records
* Both manual and electronic systems may be used to gather information and should be listed here.
1. **Frequency of information sharing**

The personal information outlined within Section 5, Part D and Annex A, will only be shared on a need-to-know basis to support the functions of this ISP.

Should changes be made to a record, all reasonable efforts must be taken to ensure that anyone who has received a copy of the record is also alerted to the change.

1. **Retention Schedules**

Personal data will be held, processed and then destroyed securely in accordance with the retention schedule of each partner organisation.

1. **Subject Access Requests**

Requests for personal information will be processed and responded to using the standard SAR procedure within each partner organisation.

1. **Information Security**

Breaches of security, confidentiality and other violations of this ISP must be reported in line with each partner organisations’ incident reporting procedures.

Significant data breaches involving personal information provided by partners under this ISP should be notified to the partner that originally provided the information.

1. **Complaints**

Each partner organisation has a formal procedure by which Service Users can direct their complaints regarding the application of this ISP.

1. **Review of this ISP**

This ISP will be reviewed July 2017 or sooner if appropriate.

**To Contents**

**Part D – Methods and controls for the sharing of personal information to support this ISP**

1. **Information flow reference table**

The information flow reference table provides a list of the personal information to be shared between the partner organisations, who in each partner organisation it will be shared with, when it will be shared, why it will be shared and the methods of how it will be shared.

The information flow reference table will be reviewed and updated as necessary, to reflect any changes in the processing of personal information detailed in this ISP.

Information Sharing Protocol for Fife Adult Protection Committee

Record details of the information shared and any requests where the decision taken was not to share information

**AND**

Record details of consent or refusal/withdrawal to share information

(See sections 13 and 14 above)

Provide information authorised for sharing to the partner organisation

(See section 18 above)

If further confirmation is required of the information to be shared refer to line manager, or partner agencies SPOC (Single Point of Contact)

(See section 2 above)

Review the information to ensure that it is necessary, proportionate and up to date. Particular care should be taken if sensitive personal data or third party personal data is being considered for disclosure

(See sections 5 and 10 above)

Gather relevant information

(See section 5 above)

Confirm that the adult who is the subject of the request for information falls within the scope of the ISP

(See sections 3 and 6 above)

**To Contents**

**Appendix A: Information which can be shared under this ISP**

1. **Details of information to be shared**
* adult at risk concerns
* needs assessment
* health risks
* social risks
* environmental risks
* financial assessment
* current housing situation
* family support
* vulnerability
* language or communication issues;
* cognitive issues
* risks to others, including staff

**To Contents**