

# **INFORMATION SHARING AGREEMENT**

## **South East Wales Public Protection Services**

<b>Agreement Drawn up By:</b>		<b>Multi-Agency Working Group</b>	
<b>Location of Agreement:</b>		<b>Protocol Officer, Community Safety, Heddlu Gwent Police</b>	
<b>For Publication under Freedom of Information</b>		<b>Yes</b>	
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## SUMMARY SHEET

<b>ISA REF:</b>	This will be provided by the Information Sharing Co-ordinator
<b>PURPOSE:</b>	This agreement has been prepared to support the sharing of personal information as part of Public Protection Services within the Wales National framework as described by the WASPI and ACPO guidelines.
<b>PARTNERS:</b>	<p>Heddlu Gwent Police</p> <p>Blaenau Gwent Local Authority</p> <p>Caerphilly Local Authority</p> <p>Monmouthshire Local Authority</p> <p>Newport Local Authority</p> <p>Torfaen Local Authority</p> <p>Gwent Healthcare Trust</p> <p>Blaenau Gwent Local Health Board</p> <p>Caerphilly Local Health Board</p> <p>Monmouthshire Local Health Board</p> <p>Torfaen Local Health Board</p> <p>Registered Social Landlords</p> <p>Gwent Probation Service</p> <p>Children and Family Court Advisory and Support Service Cymru (CAFCASS Cymru)</p> <p>Victim Support</p> <p>Womans Aid</p> <p>Black Association of Women Step Out (BAWSO)</p> <p>NHS Direct</p> <p>Fire Service</p> <p>MIND</p> <p>Llanarth Court Secure Hospital</p> <p><u>Independent Care Homes (Over-Arching Body)</u></p> <p>Wales Ambulance NHS Trust</p> <p>YJB x 3 YOTs</p>
<i>Date the Agreement came into Force:</i>	To be completed by Sponsor
<i>Date of Agreement Review:</i>	To be completed by ISA Co-ordinator
<i>Agreement</i>	<b>Organisational Heads</b>

<i>Owners:</i>	
<i>Agreement drawn up by:</i>	Multi-Agency Working Group
<i>Protective Marking:</i>	Not Protectively Marked

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## 1. Introduction

This agreement has been prepared to support the sharing of personal information as part of Public Protection Services within the Wales National framework as described by the and Association of Chief Police Officers guidelines and the Wales Accord on the Sharing of Personal Information.

The aim of the Public Protection information sharing agreement is to enable the partners to work together to safeguard people and promote their welfare, to alleviate crime, anti-social behaviour and to ensure the proper management of offenders in the community in a process that individuals and organisations experience as seamless and timely.

## 2. Purpose

This Personal Information Sharing Protocol details the specific purpose(s) for information sharing to support the organisations and people it impacts upon, the relevant legislative powers, what data is to be shared, the consent processes involved (where appropriate), the required operational procedures for the exchange of information and the process for review.

This document sets out the rules and procedures to be adopted when sharing information to support these functions. Information shared to support functions other than those listed is not covered by this document.

## 3. Partners

The partners to this agreement are:

Heddlu Gwent Police	Gwent Healthcare NHS Trust
Blaenau Gwent Local Authority	Blaenau Gwent Local Health Board
Caerphilly Local Authority	Caerphilly Local Health Board
Monmouthshire Local Authority	Monmouthshire Local Health Board
Newport Local Authority	Newport Local Health Board
Torfaen Local Authority	Torfaen Local Health Board
Registered Social Landlords	GP's within the LHB jurisdiction
Gwent Probation Service	NHS Direct
Gwent Fire Service	Independent Secure Hospitals
Black Association of Women Step Out	Independent Care Homes
MIND	Wales Ambulance NHS Trust
Children and Family Court Advisory and Support Service Cymru	Victim Support
	Woman's Aid

To be completed during consultation phase.

#### **4. Consent**

For the purposes described in this agreement, consent of the individual is not required to share information between the signatory partners.

Information can be lawfully shared without consent where an appropriate professional has taken the view that the duty of confidentiality can be breached in the interests of public protection, in accordance with relevant legislation.

In making the decision to share information, the following should be considered:

- Is the disclosure necessary for the prevention or detection of crime, prevention of disorder to protect the rights and freedoms of others?
- Is the disclosure necessary for the protection of the public, including young or other vulnerable people?
- What risk to others is posed by this individual?
- What is the vulnerability of those who may be at risk?
- What will be the impact of disclosure?
- Is the disclosure proportionate to the intended aim?
- Is there an equally effective but less intrusive alternative means of achieving that aim?
- What are the risks of not sharing?

The individual or their representative should usually be informed of this decision and what information has been shared, unless doing so would risk harm to that individual or others or hinder any investigation or legal proceedings.

#### **5. Legislative Framework**

Within the legislative framework personal identifiable information can be shared without consent under:

➤ ***Crime and Disorder Act 1998 s115:***

Section 115 of this Act permits the disclosure of personal information that may otherwise be prohibited. There is not a compulsion to disclose and the organisation must make its own decision; however, the requirements of the common law duty of confidence and the Data Protection Act 1998 must still be met. Therefore, information given in confidence can only be disclosed if there is a clear overriding public interest to do so.

If a disclosure is made, it must be necessary or appropriate to allow the Crime and Disorder Act to be applied and the information must only be disclosed to a relevant authority. This will be determined by the individual circumstances of each case. The outcome to be achieved must be weighed against the public interest provision of confidentiality.

➤ ***Data Protection Act 1998 s29:***

Section 29 of the DPA permits the disclosure of personal information for:

- The detection and prevention of crime;
- The apprehension or prosecution of offenders; or
- The assessment or collection of any tax or duty or of any imposition of a similar nature.

Disclosure needs to be determined by the individual circumstances of each case. The outcome to be achieved must be weighed against the provision of confidentiality.

➤ **Data Protection (Processing of Sensitive Personal Data) Order 2000:**

This Order amends the DPA 1998 and provides that sensitive personal data (e.g. mental or physical health) may be lawfully processed without explicit consent where there is substantial public interest in disclosing the data for any of the following purposes:

- For the detection and prevention of crime;
- For the protection of members of the public against malpractice, incompetence, mismanagement etc;
- To publicise the fact of malpractice, incompetence, mismanagement etc, for the protection of the public;
- To provide confidential counselling and advice where explicit consent cannot be given or reasonably obtained, or where the processing must be carried out without explicit consent so as not to prejudice that confidential counselling or advice;
- To undertake research that does not support measures or decisions with respect to any particular data subject unless the data subject has explicitly consented and does not cause, nor is likely to cause, substantial damage or substantial distress to the data subject or any other person.

There must be a substantial public interest in making the disclosure for any of the above purposes.

➤ **Other Acts:**

There are many other Acts of Parliament whereby a criminal offence is caused if the Act is breached. The release of information for the purposes of "prosecution" in relation to these Acts will fall under the provisions of the Crime and Disorder Act 1998 and the Data Protection Act 1998.

Such Acts will include but are not restricted to:

- *Mental Health Act 2007*

The Act is largely concerned with the circumstances in which a person with a mental disorder can be detained for treatment for that disorder without his or her consent. It also sets out the processes that must be followed and the safeguards for patients, to ensure that they are not inappropriately detained or treated without their consent. The main purpose of the legislation is to ensure that people with serious mental disorders which threaten their health or safety or the safety of the public can be treated irrespective of their consent where it is necessary to prevent them from harming themselves or others.

- *Sexual offences Act 2003:*

The Act makes provision about sexual offences. It covers the non-consensual offences of rape, assault by penetration, sexual assault and causing a person to engage in sexual activity without consent. It defines "consent" and "sexual" and sets out evidential and conclusive presumptions about consent. It covers child sex offences and offences involving an abuse of a position of trust towards a child. Familial child sex offences and offences involving adult relatives are provided for, as are offences designed to give protection to persons with a mental disorder. The age of a "child" in the Protection of Children Act 1978 has been amended to 18, and

defences are provided for in limited cases where the child is 16 or over and the defendant is the child's partner. It also contains measures for protecting the public from sexual harm.

Risk of sexual harm orders, specifically designed to protect children from sexual harm, have been created, as have foreign travel orders, which can be used to prevent an offender with a conviction for a sex offence against a child from travelling to countries where he is at risk of abusing children.

- *Anti-Social Behaviour Act 2003:*

The Act is designed to ensure that the police have the appropriate powers to deal with serious anti-social behaviour. It introduces new powers for tackling the problem of premises used for drug dealing and for dispersing intimidating groups. It enables the police to tackle the nuisance that can be caused by young people with air weapons, and supports action against gun crime by banning the possession of imitation guns and air guns in public without good reason. It also tackles the danger of air weapons that can be easily converted to be used with conventional ammunition. It also amends existing police powers to place conditions on public assemblies, deal with illegal raves and to deal with unauthorised encampments.

The Act also provides powers for local authorities and those working with them to tackle anti-social behaviour in local communities. It extends landlords' powers to deal with anti-social behaviour in social housing, including developing the use of injunctions and demoted tenancies. It also includes provisions aimed at dealing with noise nuisance. It develops the sanctions that are available for use against those who engage in anti-social behaviour and extends the range of agencies that can use them. It provides a means for schools, local authorities and youth offending teams to work with the parents of children who are behaving anti-socially and creates the mechanisms for enforcing this work. The Act extends local authorities' powers in relation to cleaning land. It extends the measures that can be taken to remove graffiti, and restricts the sale of aerosol paint to children. The Act also gives local authorities powers to intervene in disputes over high hedges.

- *Computer Misuse Act 1990*

The Act makes provision for securing computer material against unauthorised access or modification and for connected purposes.

- *Housing Act 1996*

This Act makes provision about housing, including provision about the social rented sector, houses in multiple occupation, landlord and tenant matters, the administration of housing benefit, the conduct of tenants, the allocation of housing accommodation by local housing authorities and homelessness; and for connected purposes.

➤ ***Interference with Article 8 of the Human Rights Act 1998***

The Human Rights Act 1998 incorporates the European Convention on Human Rights into UK Law, allowing an individual to assert their convention rights in UK courts and tribunals rather than at the European Court.

Article 8 of the Convention – the right to respect for private and family life – is the most relevant for this Information sharing agreement. These are:

- The right to respect for private life;
- The right to respect for family life;
- The right to respect for one's home; and
- The right to respect for correspondence.

Article 8 rights are qualified rights, which mean that in certain circumstances they can be set aside by the State. However, this must be lawful, for a legitimate social aim and be necessary to achieve that aim and must be proportionate to the objective to be achieved.

Legitimate social aims are:

- National security;
- Protection of public safety;
- Protection of health or morals;
- Prevention of crime and disorder;
- Protection of the economic well-being of the country
- Protection of the rights and freedoms of others.

Each organisation will have to weigh up the public interest necessity of breaching Article 8 rights against the rights of the individual.

Complying with the Data Protection Act 1998 and the common law duty of confidence will likely meet the requirements of Article 8.

Whilst the above provisions provide the power to share information, the actual disclosure of information in accordance with these powers must be conducted within the legal framework of the Data Protection Act and the Human Rights Act and in compliance with the common law duty of confidence.

## **6. Proportionality**

Proportionality is about the amount of information that should be shared, i.e. providing enough information for the purpose it was sought. Information will only be shared for the purposes set out in this agreement and will extend only to that required to achieve the desired objective.

## **7. Process**

This agreement has been formulated to facilitate the exchange of information between Partners. It is however incumbent on all Partners to recognise that any information shared must be justified on the merits of each case.

Information will be provided by signatories electronically, in hard copy or delivered verbally, e.g. by courier, post, e-mail, secure fax, by hand or telephone.

A record must be maintained at all times whether the information is provided or not. If not provided the reason must be recorded.

Requests for disclosure of information by Gwent Police will be made to the supplier of the information on form 1: Request for Information (Appendix 1).

## **8. Data Quality**

Information discovered to be inaccurate or inadequate for the purpose will be notified to the data owner who will be responsible for correcting the data and notifying all other recipients of the data, who must ensure the correction is made.

## **9. Types of Information to be shared**

Appropriate information may include concerns; needs assessment; health risks; social risks; current housing situation; family support; financial assessment; risks to staff; environmental risks; criminal information; risk assessment; vulnerability.

## **10. Constraints on the use of the information**

The information shared must be used only for the purpose it was originally requested.

## **11. Training**

Signatory organisations will ensure that all current and newly appointed staff receive appropriate training in the application of this agreement.

## **12. Security**

Each agency is responsible for securing all information that is shared.

## **13. Complaints Procedure**

Each organisation must have a formal procedure by which Service Users can direct their complaints regarding application of this agreement or disclosure of information.

## **14. Review, retention and destruction of information**

Each signatory organisation will comply with its own policies and procedures in relation to review, retention and destruction of the information received.

## **15. Review of the information sharing agreement**

This agreement will be reviewed six months and 12 months after its implementation, and annually thereafter. If there is a significant change in, for example, legislation requiring a change to the document, it will be reviewed when required to ensure its integrity and legality. This document will be co-ordinated by Heddlu Gwent Police.

**Appendix 1**

Form 1

<p>RESTRICTED</p> <p><b>Form: Request for Personal Information</b></p>
<p>I am requesting personal information or sensitive personal information under the Data Protection Act 1998 &amp; Section 115 Crime &amp; Disorder Act 1998 about: This form must be completed when disclosing personal information or conviction data. These actions may only be carried out by a designated officer who must sign and retain a copy for audit/disclosure purposes. The information is subject to the provisions of the Data Protection Act 1998 and Common Law duty of confidentiality. This information must not be used for any purpose other than that for which it was requested and must not be disclosed to any unauthorised person. There is an obligation upon you to ensure appropriate security measures are in place in respect of it. This information should be destroyed as soon as it has served its required purpose or reached its expiry date.</p>

Our Ref	
Surname	
All previous surnames	
Also known as	
Forenames	

Place of Birth		Date Of Birth	
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Full Present Address	
Post Code	
Previous Address	
Post Code	

The information I require is:
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**Brief grounds for enquiry**

I confirm that the personal or sensitive personal information is required for the following purpose:     
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Failure to provide the information will result in:     
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**Must be designated Information Sharing Officer**

Signed		Date	
Name		Title	

