

Islington Children's Services Information Sharing Agreement

Children's Services Partnership



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Background

Every Child Matters established the need for improved sharing of information between agencies delivering services to children. This Agreement forms part of the Information Sharing framework and specifies how agencies that work with children in the Islington area will share information in an appropriate and secure way.

This Agreement has been developed under the framework of the General Islington Information Sharing Protocol, which was adopted by the Islington Strategic Partnership and its member bodies (listed at the end of this agreement). A series of operational level Information Sharing Agreements have also been developed and are intended for use between services.

Islington's General Information Sharing Protocol and the government's guidance include the principles and legal framework for information sharing in general. All practitioners should read the DCSF guidance:

<http://www.everychildmatters.gov.uk/resources-and-practice/IG00065/>

1. Introduction

- 1.1 Information is a vital resource. This Agreement provides the framework upon which the exchange of information can be facilitated between the relevant agencies and where the principles of data protection are upheld.
- 1.2 The London Borough of Islington, CEA@Islington, Islington schools and Islington Primary Care Trust are under no obligation to disclose information unless satisfied that the principles of data protection are upheld. Relevant statutes may provide the power to disclose information but may not impose a duty to disclose, thus control over the disclosure of information remains with the agency that controls the data. Disclosure relies on existing conditions that justify the disclosure of information, good relations and mutual trust, and the effectiveness of these information-sharing arrangements is a reflection of the effectiveness of the multi-agency framework as a whole.
- 1.3 The purpose of this agreement is to facilitate the exchange of information in order to comply with the statutory duty of local authorities and other agencies provide services to children, young people, parents, carers and families. A list of signatories to the main protocol is included at the back of this agreement.
- 1.4 The public rightly expect – and the Data Protection Act 1998 requires – that personal information held by statutory agencies will be properly protected. However there is also a public expectation that there will be an appropriate sharing of information to ensure that children and young people obtain the best possible services to meet their needs.
- 1.5 In order to share appropriate information between partners there must be lawful, defined and justifiable purpose(s) which support(s) the effective delivery of a policy or service that respects people's expectations about the privacy and confidentiality of their personal information but also considers the consequences of a failure to act. This in turn must be supported by robust business processes.

2. Benefits for children, young people and families

- This agreement will help to protect children's rights to privacy and safeguard their data.
- All staff of the listed agencies will respect the wishes of the child and ensure that they obtain the consent of the child and family first before sharing and/or exchanging information, unless there is an over-riding requirement not to do so (for example in the case of serious harm to a child).
- Wherever possible staff will engage with children and young people to explain what information will be shared and with whom in clear, straightforward language.
- By sharing information, agencies will be able to identify children considered to be 'in need' and provide effective multi-agency intervention in order to promote their health and wellbeing. Nominated staff will engage in regular multi-agency case discussions in order to secure services for identified children, young people and their families.

3. Purpose of this information sharing agreement is to:

- Promote or improve the economic, social, and environmental wellbeing of children and families in keeping with the five outcomes in Every Child Matters. This will include provision of improvements to health and/or educational opportunity as well as the reduction or elimination of risk factors for children within the borough (Section 2, Local Government Act 2000).
- Obtain assistance for the local authority from other authorities and all partners of the Children and Young People's Partnership to meet its statutory duties under Sections 10, 11 and 12 of the Children Act 2004.
- Support the local authority to perform its functions of providing services to children and families under Part III, Section 27, of the Children Act 1989.
- Ensure the provision of appropriate services for all children and young people 'in need' or at risk or likely to be at risk of suffering significant harm (Sections 17 (1) and 47 (1) of the Children Act 1989) or who otherwise are considered to be at risk of social or educational exclusion.
- To prevent or reduce crime and identify and apprehend offenders or suspected offenders (Section 115, Crime and Disorder Act 1998).
- Legally share and exchange information relating to children in receipt of "universal services" in nurseries, schools and children's centres and/or for children with "additional needs" as covered under the Children Act 2004 (see s.4.6)
- Describe the roles and structures that will support the exchange of information between agencies.
- Describe the security procedures necessary to ensure compliance with the Data Protection Act and agency specific security requirements.

- Describe how this agreement will be monitored and reviewed.

4. Who is this agreement for?

The parties to this agreement are those represented by the signatories at the end of this document. This list will be updated and reissued on a regular basis, but currently includes:

- Islington Council's Children's Services department including children's social care services, youth offending service, all schools, nurseries, children's centres and services operating out of, or as part of the young people's service including youth clubs, adventure play grounds and extended services play provision.
- CEA@Islington.
- the Primary Care Trust.
- Homes for Islington.
- City & Islington College
- the police and probation service.
- all voluntary, community, faith based and independent sector providers that are commissioned by the council from April 2008*
- any organisations delivering services for children and young people who have signed the Information Sharing protocol and this agreement.

By signing this document all of these parties agree to accept and implement this Information Sharing agreement and any associated operational agreements and to adopt the statements and procedures contained within them.

5. Scope of this Agreement

The agreement covers all children and young people from 0 – 19 who live and/or are receiving services in Islington.

The focus of the agreement is about sharing 'personal' and 'sensitive' information about children and young people. ('Personal data' and 'sensitive data' are as defined in the Data Protection Act 1998).

6. The Agreement

The parties agree to share information with each other and agencies in Appendix C when it is considered appropriate to do so and to assist in the delivery of services to a child or young person. Such information must be shared in a secure way by practitioners and includes but is not limited to accessing shared databases, attending multi agency meetings and making written referrals to other agencies.

The parties signing this agreement agree to identify a "designated officer" to ensure that their organisation implements the procedures set out below covering the disclosure, sharing and exchange of information and to nominate appropriate staff to undergo relevant training.

As such they undertake to:

- Implement and adhere to the procedures and structures set out in this agreement.
- Ensure that where these procedures are complied with, then no restriction will be placed on the sharing of information other than those specified within this agreement.
- Engage in a review of this agreement with partners at least annually.

7. Legal Basis for Information Processing/Sharing

This agreement has been developed for all organisations undertaking statutory duties in accordance with the Data Protection Act 1998, the common law duty of confidence and within the General information sharing protocol as agreed by the Islington Strategic Partnership.

8. Information Sharing Principles

The parties signing up to this agreement will be required to manage information sharing based on, the Caldicott Principles adopted by NHS staff and the overarching 6 key principles for sharing information contained within the 'Guide to Information Sharing' (DfES April 2006).

9. Data protection

It is the responsibility of all parties to this protocol to ensure that they are properly registered to exchange information as required under the Data Protection Act 1998. The data protection principles require that:

- Personal data shall be processed fairly and lawfully.
- Personal data shall be obtained only for one or more specified and lawful purpose(s) and shall not be further processed in any manner incompatible with that purpose or purposes.
- Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- Personal data shall be accurate and, where necessary, kept up-to-date.
- Personal data processed for any purpose or purposes shall not be kept for longer than is necessary.
- Personal data shall be processed in accordance with the rights of data subjects under this Act.
- Security measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction or damage to personal data.
- Personal data shall not be transferred to a country or territory outside the European Union, unless that country or territory ensures an adequate level of protection for

the rights and freedoms of data subjects in relation to the processing of personal data.

10. Caldicott Principles

These are the principles governing the sharing of information by NHS staff. The signatories to this agreement agree to maintain these principles:

- **Principle 1:** Justify the purpose(s)
- **Principle 2:** Do not use personally identifiable information unless it is absolutely necessary.
Personally identifiable information items should not be used unless there is no alternative.
- **Principle 3:** Use the minimum personally identifiable information.
Where the use of personally identifiable information is considered to be essential, each individual item of information should be justified with the aim of reducing identifiability.
- **Principle 4:** Access to personally identifiable information should be on a strict need to know basis.
Only those individuals who need access to personally identifiable information should have access to it.
- **Principle 5:** Everyone should be aware of their responsibilities.
Action should be taken to ensure that those handling personally identifiable information are aware of their responsibilities and obligations to respect patient/client confidentiality.
- **Principle 6:** Understand and comply with the law.
Every use of personally identifiable information must be lawful. Someone in each organisation should be responsible for ensuring that the organisation complies with legal requirements.

The extent of any personal information disclosed will be limited to that which is relevant to the purpose or purposes for which the information was requested.

A record will be kept of all requests from and disclosures to other parties to this protocol of personal information, together with the reason(s) for both the request(s) and disclosure(s). Any request for personal information whose purpose is the prevention or detection of crimes will also specify as clearly as possible how failure to disclose such information would prejudice this purpose.

Personal data will not be kept for longer than is necessary for the purpose for which it was provided, and in accordance with legislative requirements. As part of the review of this agreement, the retention, archiving and deletion of records will be kept under review.

11. Procedures

What do staff need to do?

A Consider whether data to be shared is 'personal'

Depersonalised data: The Data Protection Act places no restrictions on the disclosure of information that does not identify individuals. If depersonalised data can be used for information-sharing purposes there are no data protection

implications and such sharing is permitted without the need to obtain consent. This would cover things such as statistical analyses, where no individuals can be identified. However, care needs to be taken when working with very small numbers with specific characteristics, as these can produce an identifiable person.

Personal Data: Any disclosure of personal information must have regard to both common and statute law, the common law duty of confidence, data protection principles and the Human Rights Act 1998. (see Appendix A for relevant legislation that supports information sharing).

Personal data relates to a living individual who can be identified from that data. It also includes any expression of opinion about the individual and any indications of the intentions of any person in respect of the individual.

Sensitive personal data is defined as: personal data which consist of information concerning racial or ethnic origin, political opinions, religious or other similar beliefs, trade union membership, physical/mental health or condition, sexual life, alleged or committed offences, proceedings, disposal or sentence concerning any alleged or committed offences.

B Obtain informed consent

Do you have consent to share?

Consent issues can be complex, and lack of clarity about them can sometimes lead practitioners to incorrect assumptions that no information can be shared. This section gives further information to help you understand and address the issues. It covers:

- what constitutes consent?;
- whose consent should be sought?;
- when not to seek consent.

What constitutes consent?

Consent must be 'informed' – this means that the person giving consent needs to understand why information needs to be shared, who will see their information, the purpose to which it will be put and the implications of sharing that information.

Consent can be 'explicit' or 'implicit'. Obtaining explicit consent is good practice and it can be expressed either orally or in writing, although written consent is preferable since that reduces the scope for subsequent dispute. Implicit consent can also be valid in many circumstances. Consent can legitimately be implied if the context is such that information sharing is intrinsic to the activity, and especially if that has been explained at the outset, for example when conducting a common assessment. A further example is where a GP refers a patient to a hospital specialist and the patient agrees to the referral; in this situation the GP can assume the patient has given implied consent to share information with the hospital specialist.

The approach to securing consent should be transparent and respect the individual. For example, it is good practice to set out clearly your agency's policy on sharing information to children, young people and families, when they first access the service. We attempt to ensure that we obtain written consent to sharing information at the point when the child or family first comes into contact with our services

through collecting their basic information on a form and seeking a signature (the wording on the form about a person's rights is called a Fair Processing Notice).

Consent should not be secured through coercion, or inferred from a lack of response to a request for consent. If there is a significant change in the use to which the information will be put to that which has previously been explained, or in the relationship between the agency and the individual, consent should be sought again. Individuals have the right to withdraw consent after they have given it, although in practice this is rarely exercised.

Whose consent should be sought?

You may also need to consider whose consent should be sought. Where there is a duty of confidence it is owed to a person who has provided the information on the understanding it is to be kept confidential and, in the case of medical or other records, the person to whom the information relates. A young person aged 16 or 17, or a child under 16 who has the capacity to understand and make their own decisions, may give (or refuse) consent to sharing.

Children aged 12 or over may generally be expected to have sufficient understanding. Younger children may also have sufficient understanding. When assessing a child's understanding you should explain the issues to the child in a way that is suitable for their age, language and likely understanding. Where applicable, you should use their preferred mode of communication.

The following criteria should be considered in assessing whether a particular child on a particular occasion has sufficient understanding to consent, or refuse consent, to sharing of information about them:

- Can the child understand the question being asked of them?
- Does the child have a reasonable understanding of:
 - what information might be shared?
 - the main reason or reasons for sharing the information?
 - the implications of sharing that information, and of not sharing it?
- Can the child or young person:
 - appreciate and consider the alternative courses of action open to them?
 - weigh up one aspect of the situation against another?
 - express a clear personal view on the matter, as distinct from repeating what someone else thinks they should do?
 - be reasonably consistent in their view on the matter, or are they constantly changing their mind?

In most cases, where a child cannot consent or where you have judged that they are not competent to consent, a person with parental responsibility should be asked to consent on behalf of the child.

Where parental consent is required, the consent of one such person is sufficient. In situations where family members are in conflict you will need to consider carefully whose consent should be sought. If the parents are separated, the consent of the resident parent would usually be sought. If you judge a child or young person to be

competent to give consent, then their consent or refusal to consent is the one to consider even if a parent or carer disagrees.

These issues can raise difficult dilemmas. You must always act in accordance with your professional code of practice and in the best interests of the child, even where that means overriding refusal to consent.

- Staff will explain to children, young people and families at the outset, openly and honestly, what and how information will, or could be shared and why, and seek their agreement. The exception to this is where to do so would put that child, young person or others at increased risk of significant harm or an adult at risk of serious harm, or if it would undermine the prevention, detection or prosecution of a serious crime including where seeking consent might lead to interference with any potential investigation.
- Staff must always consider the safety and welfare of a child or young person when making decisions on whether to share information about them. Where there is concern that the child may be suffering or is at risk of suffering significant harm, the child's safety and welfare must be the overriding consideration and consent may not be needed to share information.
- Staff will, where possible, respect the wishes of children, young people or families who do not consent to share confidential information. They may still share information, if in their judgement on the facts of the case, there is sufficient need to override that lack of consent.
- Staff should seek advice where they are in doubt, especially where that doubt relates to a concern about possible significant harm to a child or serious harm to others.
- Staff will ensure that the information they share is accurate and up-to-date, necessary for the purpose for which they are sharing it, shared only with those people who need to see it, and shared securely. Secure transfer of information can be within a secure network, via email if password-protected or by confidential letter. The transfer of personal information via fax or email outside a secure network should be avoided.

Record that consent has been obtained

Staff need to ensure that they have recorded consent has been obtained either on the relevant case management system or in written records – e.g. on an assessment form. It is possible that only partial consent is given to share information – this must be respected, and care needs to be taken to ensure that a child's or young person's wishes are complied with.

When not to seek consent

There will be some circumstances where you should not seek consent, for example where to do so would:

- place a child or young person at increased risk of significant harm; or
- place an adult at risk of serious harm; or
- prejudice the prevention or detection of a serious crime; or
- lead to unjustified delay in making enquiries about allegations of significant harm.

12 The Collection of Personal Information

Personal information shall be collected in accordance with the following processes:

Each Party agrees that:

- 1) it is responsible for maintaining the personal information that it has collected on its own account, or jointly with another Party, in accordance with the Data Protection Act 1998;
- 2) it will retain legal responsibility for correcting personal information where it is factually incorrect; and
- 3) it will notify the agency where a record of an opinion or judgement recorded by a health, schools, early years, voluntary, community and faith sector representative or social care professionals, is inaccurate and ask for it to be amended. The recording agency may take the view that the recorded opinion or judgement was correct at the time it was made or is essential for understanding the clinical decisions that were made and to audit the quality of care. Generally staff making judgements should do so on the basis of evidence.

13. Sharing of Personal Information

Personal information may be disclosed only if that information is necessary to perform a function or responsibility identified by the person requesting the information has been made in accordance with the procedures set out in the Information Sharing Protocol.

UNLESS:

the service user or some other person to whom such personal information relates has **refused consent** for the sharing of such personal information

14. Audit Trail Procedure

Designated officer

The parties to this agreement shall nominate a designated officer who will be responsible for ensuring the recording of requests and disclosures of personal information and monitoring this agreement.

Information should not be transferred to a third party without the consent of the disclosing party.

Information discovered to be inaccurate will be notified to the data controller who will be responsible for correcting the data. The data controller will then notify all other recipients of that data, who must ensure that the correction is made.

Records should be kept in such a way that they can be subject to audit.

Decisions on disclosures reached at meetings must be recorded.

The designated officer will ensure that appropriate security arrangements are in place within their respective organisations to prevent unauthorised access to and disclosure of personal data.

A list of designated officers who assume responsibility for data protection, security and confidentiality issues and compliance with legislation within their respective agencies will be made available to partner agencies as a matter of routine.

15. Disclosures

- 15.1 When disclosing personal information, many of the data protection issues surrounding disclosure can be avoided if the consent of the individual concerned has been sought and obtained.
- 15.2 The agency that originally discloses personal information to another party to this agreement always retains responsibility for the data. Each agency must therefore decide the propriety of any particular disclosure for itself. The identity of the data controller must therefore always be recorded against that data.
- 15.3 A recipient of personal information must obtain the consent of the data controller before making a secondary disclosure to another party to this agreement.
- 15.4 Personal information can only be released without the consent of the person concerned under particular circumstances, which include: when a child is believed to be at serious risk of harm; when there is evidence of serious public harm or risk of harm to others; where there is evidence of a serious health risk to an individual; for the prevention, detection or prosecution of serious crime, or when instructed to do so by a court.

16. Subject access

- 16.1 Under data protection legislation individuals have a right of access to any information held about themselves. This right may be denied in certain limited circumstances, which include where access would prejudice the prevention and detection of crime.
- 16.2 Where a party to this protocol receives a request for information about an individual, and personal information which it holds is identified as being controlled by another agency, it will be the responsibility of the receiving agency – through the designated officer – to contact the agency that controls the data to determine whether the data can be released under the provisions of the Data Protection Act.
- 16.3 Each of the parties to this agreement will be responsible for issuing specific guidance and training to its staff to ensure compliance with this protocol.
- 16.4 Legal advice on this agreement and the Information Sharing Protocol should be sought in any case of doubt.
- 16.5 Each party to this agreement will introduce their own arrangements to check that this agreement and the Information Sharing protocol, its associated working practices and legal requirements are being adhered to.

17. Complaints

Complaints about the disclosure of information should be dealt with under the established procedures of each agency.

18. Contact Point

The Government’s national database of all children and young people will contain basic demographic information, plus their school and GP and, where consent has been given, contact details for other agencies working with the child or young person. It will be local authorities’ responsibility to ensure that the data for their children are accurate. This data will be drawn from a number of sources including case management systems used by health and education.

19. Indemnity

Where a disclosing agency provides information to a requesting agency which is inaccurate and the requesting agency incurs liability, cost or expense as a result of its reliance upon the information provided, the disclosing agency shall indemnify the requesting agency against any such liability, cost or expense reasonably incurred, provided that this indemnity shall not apply:

- where the disclosing agency did not know, and acting reasonably had no reason to know, that the information provided was inaccurate;
- unless the requesting agency notifies the disclosing agency as soon as practicable of any action, claim or demand to which it considers this indemnity may apply, permits the disclosing agency to deal with the action, claim or demand by settlement or otherwise, and renders all reasonable assistance in so doing.

20. Signatories

20.1 This Agreement will be signed by executive members of Islington Children and Young People’s Partnership board on behalf of their organisations.

20.2 We the undersigned agree that each agency/organisation that we represent will adopt and adhere to this information sharing agreement:

Signature	Name	Post Held	Agency	Date

21. Review

This protocol will be reviewed by the parties on an annual basis.

Appendix

(Please see Appendix A of the Islington Strategic Partnership General Protocol for detailed legislation; and Appendix B for a checklist of Legal Considerations)

Relevant legislation that supports the duty to share information

1.4 The Duty to Promote and Safeguard the Welfare of Children

1.4.1. The Council is a Local Education Authority (LEA) as described in section 12 of the Education Act 1996 ("the 1996 Act"); a Housing Authority as described in section 1 of the Housing Act 1985, a Children Services Authority as described in section 65 of the 2004 Act and exercises social services functions pursuant to section 7 of the Local Authority Social Services Act 1970.

1.4.2. The 1996 Act, the Housing Act 1985, the Children Act 1989, the Protection of Children Act 1999, the Learning and Skills Act 2000 and other legislation, regulations and guidance requires the Council, the Youth Offending team, the local Probation Board, the local Police, Connexions, the PCT, Surestart and other multi agency organisations to co-operate and share information about children and young people in the area to promote and safeguard their welfare

1.4.3. The LEA has a general responsibility to contribute towards the spiritual, moral and physical development of the community and a specific duty to promote high standards in primary and secondary education for persons of compulsory school age and those who are registered as pupils at schools maintained by the authority. The LEA also has powers in respect of nursery education.

1.4.4. Section 175 of the Education Act 2002 places a duty on the LEA and governing bodies of community, foundation or voluntary schools, community or foundation special schools or maintained nursery schools and institutions of further education to make arrangements to ensure that their functions are exercised with a view to safeguarding and promoting the welfare of children.

1.4.5. The 1996 Act, the Children Act 1989, the Education (Pupil Information) (England) Regulations 2000 and other legislation, regulations and guidance require schools to co-operate with the Council, Connexions and Health Authorities and to provide information, which enables them to discharge their statutory obligations to children in the area.

1.4.6. Under Section 1 of the National Health Service Act 1977, the PCT has a general responsibility to promote a comprehensive health service designed to secure improvement in the physical and mental health of people in the area of Islington. It also has a duty to improve the prevention, diagnosis and treatment of illness in the area.

1.5 The Duty to Co-operate to improve the well-being of Children Section 10 of the 2004 Act, places a duty on the Council as a children's services authority to make arrangements to promote co-operation between relevant local partners with a view to improving the well-being of children in the area in relation to:

- (a) physical and mental health and emotional well-being;
- (b) protection from harm and neglect;
- (c) education, training and recreation;
- (d) the contribution made by them to society;
- (e) social and economic well-being.

The following are relevant partners:

- (a) the police authority
- b) the local probation board
- (c) the youth offending team
- (d) the Strategic Health Authority and Primary Care Trust
- (e)** a person providing services to children and young people aged

13 to 19 under section 114 of the Learning and Skills Act 2000. Section 10 also places a duty on the relevant partners to co-operate with the Council to improve the well-being of children in its area.

The 2004 Act gives the Secretary of State the power to arrange for the Council to establish and operate databases containing information about children. It also gives the Secretary of State the power to make regulations to require the following to disclose information to the Council for inclusion in the database:

- (a) relevant partners
- (b) the governing body of a community, foundation or voluntary school, a community or foundation special school or a maintained nursery school
- (c) the governing body of an institution of further education
- (d) the proprietor of an independent school.

The Secretary of State may also make regulations permitting the following to disclose information to the Council for inclusion in the database:

- (a) a registered child minder
- (b) a voluntary organisation exercising functions or engaged in activities relating to children
- (c) a registered social landlord

1.6 The Children Act 1989

1.6.1 Sections 17 and 47 of the Children Act 1989 place a duty on local authorities to provide services for children in need and make enquiries about any child in their area who they have reason to believe may be at risk of significant harm.

1.6.2 Sections 17 and 47 also enable the local authority to request help from other local authorities, education and housing authorities and NHS bodies and places an obligation on these authorities to cooperate. You may be approached by social services and asked to:

- provide information about a child, young person or their family where there are concerns about a child's well-being, or to contribute to an assessment under section 17 or a child protection enquiry;
- undertake specific types of assessments as part of a core assessment or to provide a service for a child in need;
- provide a report and attend a child protection case conference.

1.6.3 The Act does not require information to be shared in breach of confidence, but an authority should not refuse a request without considering the relative risks of sharing information, if necessary without consent, against the potential risk to a child if information is not shared.

1.6.4 Section 27 says that the local authority, for assistance in the exercise of its statutory functions (which include the provision of services for children in need and the sharing of information for these purposes) request the help of:

- any local authority;
- any local education authority (LEA);
- any health authority;
- any person authorised by the Secretary of State.

1.7 The Children Act 2004

1.7.1 Section 10 of the Act places a duty on each children's services authority to make arrangements to *promote co-operation* between itself and relevant partner agencies to improve the well-being of children in their area in relation to:

- Physical and mental health, and emotional well-being;
- Protection from harm and neglect;
- Education, training and recreation;
- Making a positive contribution to society;
- Social and economic well-being.

5.6 The relevant partners must cooperate with the local authority to make arrangements to improve children's wellbeing. The relevant partners are:

- district councils;
- the police;
- the Probation Service;
- youth offending teams (YOTs);
- strategic health authorities and primary care trusts;
- Connexions;
- the Learning and Skills Council.

5.7 This statutory guidance for section 10 states that good information sharing is key to successful collaborative working and that arrangements under section 10 of the Act should ensure that information is shared for strategic planning purposes and to support effective service delivery. It also states that these arrangements should cover issues such as improving the understanding of the legal framework and developing better information sharing practice between and within organisations.

5.8 Section 11 of the Act places a duty on key people and bodies to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. The key people and bodies are:

- local authorities (including district councils);
- the police;
- the Probation Service;
- bodies within the National Health Service (NHS);
- Connexions;
- YOTs;
- governors/directors of prisons and young offender institutions;
- directors of secure training centres;
- the British Transport Police.

5.9 The section 11 duty does not give agencies any new functions, nor does it override their existing functions, it simply requires them to:

- carry out their existing functions in a way that takes into account the need to safeguard and promote the welfare of children;
- ensure that the services they contract out to others are provided having regard to that need.

5.10 In order to safeguard and promote the welfare of children, arrangements should ensure that:

- all staff in contact with children understand what to do and the most effective ways of sharing information if they believe a child and family may require targeted or specialist services in order to achieve their optimal outcomes;
- all staff in contact with children understand what to do and when to share information if they believe that a child may be in need, including those children suffering or at risk of significant harm.

Education Act 2002

5.11 The section 11 duty of the Children Act 2004 mirrors the duty placed by section 175 of the Education Act 2002 on LEAs and the governing bodies of both maintained schools and further education institutions to make arrangements to carry out their functions with a view to safeguarding and promoting the welfare of children and follow the guidance in *Safeguarding Children in Education* (DfES 2004).

5.12 The guidance applies to proprietors of independent schools by virtue of section 157 of the Education Act 2002 and the Education (Independent Schools Standards) Regulations

2003.

Education Act 1996

5.13 Section 13 of the Education Act 1996 provides that an LEA shall (so far as their powers enable them to do so) contribute towards the spiritual, moral, mental and physical development of the community, by securing that efficient primary and secondary education is available to meet the needs of the population of the area. Details of the number of children in the local authority's area and an analysis of their needs is required in order to fulfil this duty so there may be an implied power to collect and use information for this purpose.

5.14 Section 434 (4) of the Act requires LEAs to request schools to provide details of children registered at a school.

Learning and Skills Act 2000

5.15 Section 117 provides for help to a young person to enable them to take part in further education and training.

5.16 Section 119 enables Connexions services to share information with the Benefits Agency and Jobcentre Plus to support young people to obtain appropriate benefits under the Social Security Contributions and Benefits Act 1992 and Social Security Administration Act 1992.

Education (SEN) Regulations 2001

5.17 Regulation 6 provides that when the LEA are considering making an assessment of a child's special educational needs, they are obliged to send copies of the notice to social services, health authorities and the head teacher of the school (if any) asking for relevant information.

5.18 Regulation 18 provides that all schools must provide Connexions Services with information regarding all Year 10 children who have a statement of special educational needs.

Children (Leaving Care) Act 2000

5.19 The main purpose of the Act is to help young people who have been looked after by a local authority move from care into living independently in as stable a fashion as possible. To do this it amends the Children Act 1989 (c.41) to place a duty on local authorities to assess and meet need. The responsible local authority is to be under a duty to assess and meet the care and support needs of **eligible** and **relevant** children and young people and to assist **former relevant children**, in particular in respect of their employment, education and training.

5.20 Sharing information with other agencies will enable the local authority to fulfil the statutory duty to provide after care services to young people leaving public care.

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Protection of Children Act 1999

5.21 The Act creates a system for identifying persons considered to be unsuitable to work with children. It introduces a 'one stop shop' to compel employers designated under the Act (and allows other employers) to access a single point for checking people they propose to employ in a child care position.

5.22 This will be achieved by checks being made of criminal records with the National Criminal Records Bureau and two lists maintained by the Department for Education and Skills.

Immigration and Asylum Act 1999

5.23 Section 20 provides for a range of information sharing for the purposes of the Secretary of State:

to undertake the administration of immigration controls to detect or prevent criminal offences under the Immigration Act;

to undertake the provision of support for asylum seekers and their dependents.

Local Government Act 2000

5.24 Part 1 of the Local Government Act 2000 gives local authorities powers to take any steps which they consider are likely to promote the wellbeing of their area or the inhabitants of it. Section 2 gives local authorities 'a power to do anything which they consider is likely to achieve any one or more of the following objectives':

the promotion or improvement of the economic wellbeing of their area;

the promotion or improvement of the social wellbeing of their area;

the promotion or improvement of the environmental wellbeing of their area.

5.25 Section 2 (5) makes it clear that a local authority may do anything for the benefit of a person or an area outside their area, if the local authority considers that it is likely to achieve one of the objectives of Section 2(1).

5.26 Section 3 is clear that local authorities are unable to do anything (including sharing information) for the purposes of the wellbeing of people - including children and young people - where they are restricted or prevented from doing so on the face of any relevant legislation, for example, the Human Rights Act and the Data Protection Act or by the common law duty of confidentiality.

Criminal Justice Act 2003

5.27 Section 325 of this Act details the arrangements for assessing risk posed by different offenders:

The "responsible authority" in relation to any area, means the chief officer of police, the local probation board and the Minister of the Crown exercising functions in relation to prisons, acting jointly.

The responsible authority must establish arrangements for the purpose of assessing and managing the risks posed in that area by:

a) relevant sexual and violent offenders; and

b) other persons who, by reason of offences committed by them are considered by the responsible authority to be persons who may cause serious harm to the public (this includes children)

In establishing those arrangements, the responsible authority must act in co-operation with the persons identified below

Co-operation may include the exchange of information

5.28 The following agencies have a duty to co-operate with these arrangements:

a) every youth offending team established for an area

b) the Ministers of the Crown, exercising functions in relation to social security, child support, war pensions, employment and training

c) every local education authority

d) every local housing authority or social services authority

e) every registered social landlord which provides or manages residential accommodation

f) every health authority or strategic health authority

g) every primary care trust or local health board

h) every NHS trust

i) every person who is designated by the Secretary of State as a provider of electronic monitoring services

Crime and Disorder Act 1998

5.29 Section 17 applies to a local authority (as defined by the Local Government Act 1972); a joint authority; a police authority; a national park authority; and the Broads Authority. As amended by the Greater London Authority Act 1999 it applies to the London Fire and Emergency Planning

Authority from July 2000 and to all fire and rescue authorities with effect from April 2003, by virtue of an amendment in the Police Reform Act 2002.

5.30 It recognises that these key authorities have responsibility for the provision of a wide and varied range of services to and within the community. In carrying out these functions, section 17 places a duty on them to do all they can to reasonably prevent crime and disorder in their area.

5.31 The purpose of this section is simple: the level of crime and its impact is influenced by the decisions and activities taken in the day to day business of local bodies and organisations. Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across a wide range of local services that influence and impact upon community safety and putting it at the heart of local decision making. Section 17 is a key consideration for these agencies in their work in crime and disorder reduction partnerships, drug action teams, YOTs, children's trusts and local safeguarding children boards.

5.32 Section 37 sets out that the principal aim of the youth justice system is to prevent offending by children and young people and requires everyone carrying out youth justice functions to have regard to that aim.

5.33 Section 39(5) sets out the statutory membership of YOTs reflecting their responsibilities both as a criminal justice agency and a children's service. The membership and consists of the following:

- at least one probation officer;
- at least one police officer;
- at least one person nominated by a health authority;
- at least one person with experience in education;
- at least one person with experience of social work in relation to children.

5.34 YOTs have a statutory duty to coordinate the provision of youth justice services including advising courts, supervising community interventions and sentences, and working with secure establishments in respect of young people serving custodial sentences and also in the latter category of a children's service.

5.35 As YOTs are multi-agency teams, members will also need to be aware of the need to safeguard and promote the welfare of children that relates to their constituent agency.

5.36 Section 115 provides any person with a power but not an obligation to disclose information to responsible public bodies (e.g. police, local and health authorities) and with cooperating bodies (e.g. domestic violence support groups, victim support groups) participating in the formulation and implementation of the local crime and disorder strategy.

5.37 The police have an important and general common law power to share information to prevent, detect and reduce crime. However, some other public organisations that collect information may not have had the power previously to share it with the police and others. Section 115 clearly sets out the power of any organisation to share information with the police authorities, local authority (including parish and community councils), Probation Service and health authority (or anyone acting on their behalf) for the purposes of the Act.

5.38 This ensures that information may be shared for a range of purposes covered by the Act, for example for the functions of the crime and disorder reduction partnerships and YOTs, the compilation of reports on parenting orders, anti-social behaviour orders, sex offender orders and drug testing orders.

National Health Service Act 1977

5.39 The Act provides for a comprehensive health service to England and Wales to improve the physical and mental health of the population and to prevent, diagnose and treat illness.

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5.40 Section 2 provides for sharing information with other NHS professionals and practitioners from other agencies carrying out health service functions that would otherwise be carried out by the NHS.

Health Act 1999

5.41 Section 27 of the Health Act replaces section 22 of the NHS Act 1977. Section 27 states that NHS bodies and local authorities shall cooperate with one another (this allows for practitioners to share information) in order to secure the health and welfare of people.