

WARWICKSHIRE INFORMATION SHARING CHARTER

Why do we need a Charter to share information?

Organisations already share a great deal of information, much of which is general, strategic or financial in nature, and some of which is personal information relating to individual citizens. With statutory agencies, organisations, the voluntary and the private sector working more closely together, there is often a public concern that some of that information exchange may be taking place without their knowledge or in such a way as to threaten confidentiality. At the same time, sharing information about an individual within and between partner agencies is vital to the provision of co-ordinated services.

Both public and private organisations in the community must demonstrate a commitment to share information responsibly, appropriately, and securely. They must establish procedures and agreements that manage the exchange of information, and make sure that those processes are open, transparent, and accountable, while keeping personal information protected throughout.

The Charter and the associated framework will underpin the secure and confidential sharing of information between organisations involved in delivering public services in Warwickshire, in accordance with national and local policy and legislative requirements. The framework will encompass purpose-specific protocols and agency-specific agreements. The Charter is also intended to inform members of the community why information about them may need to be shared and how this sharing will be managed.

The Information Sharing Charter

This Charter recognises that sharing of information should be done fairly and lawfully and should strike a balance between the specific rights of individuals and the public interest. The following are the principles to be applied whenever personal information is shared or exchanged. The organisations signed up to this Charter are fully committed to ensuring that these standards and principles are adhered to at all times.

The principles established by this Charter are:

- **Information about individuals will only be shared when and where it is needed.**
- **Information will be shared in accordance with statutory duties, underpinned by specific protocols where appropriate.**
- **Information that is provided in confidence will be treated as confidential.**
- **Information will only be used for the purposes for which it was collected and shared.**
- **Individuals will be properly informed about the way their personal information is used and shared.**
- **Consent to share personal information will be sought wherever appropriate.**
- **Considerations of confidentiality and privacy will not automatically cease on death.**

- **The information rights of individuals will be respected and observed.**
- **Organisations collecting personal information will publish service-specific privacy statements**

The principles are explained in Appendix 2.

General purposes for which information will be shared

Each signatory to this Charter is responsible for the safe keeping of the information that they hold and is responsible for their own decisions as to when sharing information will be fair and lawful but wherever possible the signatories will work to agree common approaches to the sharing of specific items of information.

Each of the signatory agencies, their staff and representatives, agree to share information between them, to the extent that is fair and lawful, for the purposes of:

- Contributing to the delivery of the Local Area Agreement including the delivery of the agreed outcomes under the 6 theme blocks:
 - Safer Communities
 - Stronger Communities
 - Children and Young People
 - Healthier Communities and Older People
 - Economic Development and Enterprise
 - Climate Change and the Environment
- Delivering or commissioning integrated public services;
- Protecting communities and individuals from risk and harm;
- Promoting community cohesion and wellbeing;
- Planning for future services, learning lessons and sharing good practice.

Specific areas where information about individuals may need to be shared include:

- Initiatives to address the prevention of crime and disorder, where details of offenders, victims of crime, and potential perpetrators may need to be exchanged between the police and other partners addressing community safety issues.
- Initiatives to support and protect young people at risk of social exclusion, which require that information about those young people be shared between relevant agencies.
- Developments in services to vulnerable people, older people, those with disabilities or health needs, supported by doctors, hospitals, and social care services - along with providers in the private sector – that require the exchange of information about patients and service users.
- Initiatives to reduce social exclusion, enhance community cohesion, promote lifelong learning and develop sustainable communities.

Specific protocols will be developed to support these purposes where appropriate.

Commitments in support of the Charter

Signatories to this Charter are committed to the implementation of an appropriate level of information governance throughout their organisation, in accordance with recognised national standards. They will:

1. Adhere to the standards and principles of this Charter whenever exchanging personal information, whether with a co-signatory or other agency/organisation.
2. Share statistical and depersonalised data wherever possible, eliminating the use of personal information except where reasonably necessary.
3. Ensure that all staff (including temporary employees, contractors and volunteers) are aware of and comply with their responsibilities arising from both the Charter and relevant legislation, and receive adequate training in order to do so.
4. Implement their own policies on confidentiality, data protection information security and information management which are appropriate to their organisation and comply with recognised good practice.
5. Establish efficient and effective procedures for:
 - Obtaining written, informed consent to collect, share and process personal information wherever reasonably practicable;
 - Informing citizens what information they collect and share about them;
 - Sharing of personal information identified as part of a detailed agreement;
 - Addressing complaints arising from the misuse or inappropriate disclosure of personal information;
 - Enabling access to records of individuals by those individuals on request;
 - Amending records where they have been shown to be inaccurate;
 - Sharing information without consent when necessary, recording the reasons for that disclosure and the person responsible for making the decision;
 - Making information-sharing an obligation on staff and allocating senior staff responsibility for making complex disclosure decisions;
 - Ensuring that personal information is reasonably protected at all times, through the use of appropriate security measures.
6. Work towards reducing duplicated requests for information where several agencies are dealing with a single individual.
7. Develop and work to detailed, specific information sharing protocols that support identified purposes
8. Ensure that future developments in technology reflect the requirements of the Charter and any detailed protocols that support it.
9. Maintain information that is accurate and up to date, hold information securely for a reasonable period of time, and review and destroy information in accordance with good records management practice;
10. Adopt a suitable procedure for resolving complaints from customers about information-sharing decisions;
11. Share information between each other free of charge unless special charging arrangements have been agreed;
12. Seek legal advice where appropriate;
13. Ensure their registration as Data Controllers under the Data Protection Act is adequate for the purposes for which they may need to process and share information with one another.

14. Support the principles of equality and diversity within the community and ensure that whenever information is provided to the public it will be supplied in appropriate formats and languages as appropriate.

Implementation, Monitoring and Review

The Charter has been developed in consultation with stakeholders within Warwickshire. The Charter is owned by all of its signatories. The intention has been to develop an over-arching code of behaviour for all information-sharing applications. This will be supplemented by protocols for specific purposes which will adopt the principles and standards in the Charter as their base line and identify any additional service specific requirements.

Work to develop individual protocols will be pursued through the partnership of Warwickshire agencies and stakeholders. The Warwickshire Public Service Board will be advised as detailed protocols are developed, ensuring consistency in the development process and enabling priority areas to be identified.

Warwickshire County Council will undertake to document the framework in a consistent fashion, and publish the relevant documents on a publicly accessible website.

The Charter will be reviewed annually and will be updated to account for any changes in legislation and developments in national guidance. Issues arising from breaches of the Charter, changes in legislation, or recommendations arising from review will be presented to the Warwickshire Public Service Board for consideration. Issues, incidents and complaints resulting from failures in the specific agreements will be fed into the review processes for the individual protocols.

The Warwickshire Information Sharing Charter was agreed by the Public Service Board on 10th July 2008

The Partners below have agreed to abide by the terms of this Charter, its schedules and any variations to the Charter or its Schedules:

Coventry and Warwickshire Chamber of Commerce

Coventry and Warwickshire Infrastructure Consortium

Coventry and Warwickshire Learning and Skills Council

Coventry Diocese

Coventry Solihull Warwickshire Partnership Limited

Government of the West Midlands

Job Centre Plus

National Probation Service - Warwickshire

North Warwickshire Borough Council

Nuneaton and Bedworth Borough Council

Rugby Borough Council

Stratford-on-Avon District Council

University of Warwick

Warwick District Council

Warwickshire and West Midlands Association of Local Councils

Warwickshire County Council

Warwickshire Primary Care Trust

Warwickshire Police Authority

Warwickshire Police Service

Warwickshire Race Equality Partnership

Warwickshire Rural Communities Council

APPENDIX 1 GENERAL LEGAL FRAMEWORK AND GUIDANCE

General legal framework

The general legal framework surrounding the sharing of information includes:

- the law that governs the actions of public bodies (administrative law);
- the Human Rights Act 1998 and the European Convention on Human Rights;
- the common law duty of confidence;
- the Data Protection Act 1998; the Freedom of Information Act 2000; and
- legislation that covers specific aspects of public service delivery (eg crime and disorder prevention, social care, child protection, patient records)

Overall the law strikes a balance between the rights of individuals and the interests of society. The law is not a barrier to sharing information where there is an overriding public interest in doing so (such as where it is necessary to do so to protect life or prevent crime or harm) provided it is done fairly and lawfully.

Often personal information can be shared simply by informing people from the outset what purposes their information will be used for and then sharing only for those agreed purposes. There are however special legal considerations around sharing information that is personally sensitive or confidential, because this could have serious consequences for individuals. In deciding whether the law allows personal information to be shared, the following four steps should be considered (as recommended by the Department of Constitutional Affairs);

1. Establish whether there is a legal basis for sharing the information (ie whether the reason for sharing the information has a statutory basis – eg the prevention of crime) or whether there are any restrictions (statutory or otherwise) to sharing the information.
2. Decide whether the sharing of the information would interfere with human rights under the European Convention on Human Rights.
3. Decide whether the sharing of the information would breach any common law obligations of confidence.
4. Decide whether the sharing of the information would be in accordance with the Data Protection Act 1998, in particular the Data Protection Principles, which are that personal information must be:
 - Fairly and lawfully processed
 - Processed for limited purposes
 - Adequate, relevant and not excessive
 - Accurate and up to date
 - Not kept for longer than is necessary
 - Processed in line with individuals' rights
 - Secure
 - Not transferred to other countries without adequate protection

Further detailed guidance on using personal and sensitive personal information fairly in accordance with the Data Protection Act is set out in **Appendix 2**. In addition, the Freedom of Information Act gives anyone (an individual or an organisation) a right to request access to information from a public body. Where an exemption applies (eg it is third party personal information or commercially sensitive information), disclosure may be refused.

Categories of Information

This Charter applies to all the categories of information listed below;

Category of Information	Comments
Aggregate/statistical information	Information which does not contain personal information about individuals and is often used for planning service delivery and monitoring performance. It is not subject to the Data Protection Act nor should it be subject to any other restrictions on disclosure. Usually the sort of information that is publicly available or disclosable under the FoI Act
Depersonalised/anonymised information	Information which has had any personal information relating to living individuals removed. As this information does not contain personal information about individuals, it is not subject to the Data Protection Act nor should it be subject to any restrictions on disclosure (unless it contains some commercially confidential information- see below).
Personal information and sensitive personal information	Information that identifies a living individual and can affect their privacy. Deciding whether information is “personal” and subject to the protection of the Data Protection Act often depends on the context. The Act also defines a particular class of information - “sensitive personal information” - to which greater protection must be given.
Confidential information	<p>Information provided in confidence by another person – this creates a duty of confidence not to disclose further. Confidential information may be personal or non personal information. Confidential information should not be disclosed without the consent of the person to whom the duty of confidence is owed, unless there are overriding public interest reasons for disclosing it without consent.</p> <p>The fact that a document is marked “confidential” does not automatically mean that it is subject to a duty of confidence. The important characteristic is that it has been provided by a person in the expectation that it will not be further disclosed without the consent of that person, and it is information that has some “quality of confidence” about it (eg it is not trivial, and it is the type of information an emergency court injunction could be obtained to protect). The Government’s protective marking scheme gives clear guidance on the circumstances in which “confidential” should be used to mark documents.</p> <p>NHS and Social Care organisations which are party to this Charter are committed to the <u>Caldicott principles</u> when considering whether confidential information should be shared. These are:</p> <ul style="list-style-type: none"> • Justify the purpose(s) for using confidential information • Only use when absolutely necessary • Use the minimum that is required • Access should be on a strict need to know basis • Everyone must understand his or her responsibilities • Understand and comply with the law

APPENDIX 2 SHARING PERSONAL INFORMATION

This Appendix gives more information on the principles established by the Charter, in the context of information about individuals which is sensitive and personal.

<p>Information about individuals will only be shared when and where it is needed.</p>	<p>Personal information will only be disclosed where necessary and it will always be dealt with in a sensitive and non-discriminatory manner. For all other purposes, information about individual cases will be anonymised. Agencies will exchange statistics and aggregated information wherever possible, reducing the need for individuals to be identified. Where it is agreed that it is necessary for personal information to be shared, information will be shared on a “need to know” basis only.</p> <p>Agreements will be made between agencies defining exactly what information they need for any given purpose, how it will be shared, and who will have access to it.</p>
<p>Information will be shared in accordance with statutory duties.</p>	<p>Organisations will put in place procedures which ensure that the principles of the Data Protection Act 1998 are adhered to. In particular, they recognise the special considerations needed when sharing information defined as “sensitive personal data” in Section 2 of the DPA, that is, information relating to:</p> <ul style="list-style-type: none"> • a person’s racial or ethnic origin • his political opinions • his religious or other similar beliefs • his trade union membership • his physical and mental health • his sexual life • the commission or alleged commission by him of any offence • any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings. <p>Organisations which have directly obtained this type of information about an individual will usually seek to obtain the explicit consent of that person to disclose that information to another organisation. If consent is not given, because the person is either unable or unwilling to give that consent, or it is not sought due to issues of risk, then the information will only be released if there are statutory grounds for doing so and one of the remaining conditions in Schedule 3 of the DPA can be satisfied.</p> <p>Where consent is required before information can be disclosed, an individual will be made fully aware of what information is to be shared and the purposes for which it will be used.</p>
<p>Information that is provided in confidence will be treated as confidential</p>	<p>Much of the information provided by service users will be considered by them to be confidential in nature. All organisations that are party to this Charter accept this duty of confidentiality and will not disclose such information without the consent of the</p>

	<p>person concerned, unless there are statutory grounds and an overriding justification for so doing. In responding to information requests from partner agencies, staff in all organisations will respect this responsibility and not seek to override the procedures that each organisation has in place to ensure that information is not disclosed illegally or inappropriately.</p>
<p>Information will only be used for the purposes for which it was collected and shared.</p>	<p>Organisations will not re-use or abuse information that has been disclosed to them for specific purposes identified in an agreed protocol. Information shared with another organisation for a specific purpose will only be used for that purpose and not be regarded by that organisation as being generally available for their use. Where further purposes are identified, they must be in the sharing agreement, and steps taken so that the individual concerned is aware.</p>
<p>Individuals will be properly informed about the way their personal information is used and shared.</p>	<p>Individuals in contact with organisations will be properly informed about information that is recorded about them. If an organisation has statutory grounds for restricting an individual's access to information relating to them, then the individual will be told that such information is held and on what grounds it is restricted. Other than this, they will be given every opportunity to gain access to information held about them and to correct any factual errors that may have been made. Similarly, where opinion about them has been recorded and the service user feels this opinion is based in incorrect factual information, they will be given every opportunity to correct the factual error and record their disagreement with the recorded opinion.</p> <p>When disclosing information about an individual, practitioners will clearly identify whether the information being supplied is fact, opinion, or a combination of the two.</p> <p>Wherever professionals request that information supplied by them be kept confidential from the individual concerned, the outcome of this request and the reasons for taking the decision will be recorded. Such decisions will only be taken on statutory grounds.</p> <p>Some agencies may maintain electronic indexes of service users in order to ensure that they are consistently identified across a range of services. These indexes may also be used to ensure that information can be shared securely and enable relevant changes (eg the updating of an address) to be made from a single request or contact. Agencies using these kind of indexes will ensure that the individuals concerned are aware that information they provide will be used to update or create indexed records, and will inform them which other systems the indexes are linked to.</p>
<p>Consent to share information will be sought wherever appropriate.</p>	<p>In the majority of cases, consent to share will be sought from the individual concerned. Where this is not feasible, consent will be sought from a parent or legally registered guardian. Incapacity to consent will be judged on an individual basis, ensuring that young children, individuals subject to mental illnesses, or those who are confused due to age or other conditions, can still exercise their</p>

	<p>rights to confidentiality whenever they can demonstrate an understanding of them.</p> <p>If a parent or guardian withholds consent and there are no concerns regarding significant harm to the individual, this will be considered to be the same as an individual refusing consent and information will not be shared unless there is a statutory requirement to do so.</p> <p>Whilst the signatories to this Charter have a commitment to seeking consent before sharing detailed personal information, there will be occasions when the law allows sharing to take place without consent. This will generally take place only where there is a clear and identified risk in not sharing the information, where there is potential harm to an individual, or there is need to take action for the prevention of crime. The decision to share in these cases will be based on appropriate professional judgement and actioned within the requirements of the law. Such decisions must be made at an appropriate level within the agency supplying the information, and the reasons for not obtaining consent must be recorded. Each agency must identify who has been given authority to take this kind of decision, and in what circumstances the exercise of that authority is allowed.</p>
<p>Considerations of confidentiality and privacy will not automatically cease on death.</p>	<p>While the requirements of Data Protection Act are specifically related to living individuals, signatories to this Charter recognise that there may be occasions when information relating to deceased individuals is shared. Where possible, agencies will attempt to identify the wishes of individuals concerning the use of their personal information after death, and to comply with those wishes in line with the duty of confidentiality.</p> <p>Consideration will also be given to any potential impact on the privacy of relatives of deceased individuals when considering how and with whom information about those individuals may be shared. Legal advice will be sought on individual cases.</p>
<p>The information rights of individuals will be respected and observed.</p>	<p>In order to observe the requirements of the Data Protection Act (1998), signatories will also work to ensure that the following principles apply in handling personal information:</p> <ul style="list-style-type: none"> • where there is a choice as to whether the information can be shared or not, it will be made as easy as possible for an individual to exercise that choice; • information will only be processed without an individual's knowledge where this is necessary for purposes such as national security, public safety, statistical analysis, the protection of the economy, the prevention of crime or disorder, the protection of health or morals, or the protection of the rights and freedoms of others; • only information which is actually needed will be collected and processed; - personal information will only be seen by staff who need it to do their jobs; • any information which is no longer needed will be deleted;

	<ul style="list-style-type: none"> • decisions affecting an individual will only be made on the basis of reliable and up to date information; • personal information will be protected from unauthorised or accidental disclosure; • subject to any statutory exemptions, a copy of any information held will normally be provided on request; • any inaccurate or misleading information will be checked and corrected as soon as it is identified; • proper procedures will be in place for dealing promptly with any complaints that are made; and • personal information will be stored securely and for no longer than is necessary. <p>The principles apply to personal information which is held both on computer and in some paper records (including all papers records previously covered by the Access to Personal Files Act 1987).</p>
<p>Organisations collecting personal information will publish service-specific privacy statements where appropriate.</p>	<p>In order to comply with the requirements of the Data Protection Act it is good practice to publish privacy statements which set out who will see the information collected, why it is needed, what will be done with it and how long it will be retained for. It will also state how that personal information is safeguarded, how an individual can check and correct the information that is being held, how to pursue a query or complaint; and where to get more information.</p>