**Bradford Families First**

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| **INFORMATION SHARING PROTOCOL AND AGREEMENT WITH BRADFORD SCHOOLS**  |

**DOCUMENT CONTROL**

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1. **Purpose of the Protocol**

This Information Sharing Protocol outlines the approach to sharing information between Bradford schools in support of the delivery of the Bradford ‘Families First’ Troubled Families programme.

**It aims to set out the purpose, guiding principles and roles and responsibilities for information sharing within the Families First programme and will be underpinned by a range of detailed Information Sharing Agreements.**

**2. Introduction**

‘Families First’ is Bradford’s response to the national Troubled Families programme. It aims to provide services to families that are better co-ordinated and that aim to intervene before a family develops very complex needs.

The programme will include measures to:

* Reduce poverty and improve health outcomes
* Reduce crime and anti-social behaviour
* Improve school attendance and reduce exclusion
* Co-ordinate an approach to help adults move into work and training.

The safe and appropriate sharing of information is seen as an ‘enabler’ to ensure that the objective of ‘Families First’ are met. The information required for the effective delivery of services through the ‘Families First’ model will be personal and sensitive and as such it is critical that any information sharing is lawful.

The successful delivery of the Families First programme is dependent upon the sharing of personal and sensitive data held by different agencies (data controllers). Access to such information will be dependent upon the type of authority used by partners and on compliance with key legislation, in particular the Data Protection Act 1998.

**As such this document:**

* **Informs** about the reasons why information may need to be shared and how this sharing will be managed and controlled by the agencies concerned.
* **Identifies the local agencies** that are party to this protocol.
* **Sets out** **the principles** that underpin the exchange of information between agencies.
* **Defines the purposes** for which agencies have agreed to share information.
* **Describes the policies and procedures** that support the sharing of information between agencies and will ensure that such sharing is in line with legal, statutory and common law responsibilities.
* **Promotes a standard approach** to the development of information sharing agreements and procedures.
* **Sets out the process** for the implementation, monitoring and review of the protocol.

**2.1 Legislative context and national guidance documentation**

All agencies including schools are subject to a variety of legal, statutory and other guidance in relation to the sharing of person- identifiable or anonymised information. It is for each agency to satisfy themselves that the disclosure of information will be lawful and in accordance with their statutory or constitutional purposes.

Appendix II provides summary details of the key, legislation and guidance that will provide the legislative basis for sharing information for the purposes outlined in this document.

It is a general principle of this protocol that all partners as data controllers satisfy themselves that all disclosures are fully compliant with:

 The Data Protection Act 1998

 The Common Law Duty of Confidentiality

 The Human Rights Act

Appendix 1 sets out the conditions for compliance with the Data Protection Act 1998.

**2.2 Bradford**

This protocol builds on and complements existing multi-agency information sharing agreements including:

* Bradford Children & Young People’s Strategic Partnership;
* Bradford Safer Communities Information Sharing Protocols;
* MARAC Information Sharing Protocols.
* Families First Triage Information Sharing Agreement.

It has been drawn up in line with the government guidance given in the

Financial framework for the Troubled Families programme’s payment-by-results scheme for local authorities which sets out advice on the legal authority for sharing information.

https://www.gov.uk/government/publications/the-troubled-families-programme-financial-framework

which states clearly that the local authority will be the data repository holder.

* 1. **Partner Organisations**

**2.3.1:** Signatories to this protocol will include:

 Bradford Council

 West Yorkshire Police

 West Yorkshire Probation Trust

 InCommunities

 Bradford Health Services (where consent has been obtained) Schools

 BACS

 Voluntary Sector agencies involved in service delivery

 Job Centre Plus

**3.** **Principles guiding the sharing of information**

The following key principles guide the sharing of information between the agencies:

**3.1** Agencies endorse, support and promote the accurate, timely, secure and confidential sharing of both person identifiable and anonymised information where such information sharing is essential for the provision of effective and efficient services to the local population and support the implementation of this protocol.

**3.2** Agencies remain responsible as data controllers for ensuring the lawful and appropriate disclosure, use, retention and disposal of information and are fully committed to ensuring that any disclosure is in accordance with their legal, statutory and common law duties, and is compliant with the Data Protection Act 1998 and other relevant legislation or guidance.

**3.3** All agencies must have in place policies and procedures to meet the national requirements for Data Protection, Information Security and Confidentiality. The existence of, and adherence to, such policies provides all agencies with confidence that information shared will be transferred, received, used, held and disposed of appropriately.

**3.4** Agencies acknowledge their ‘Duty of Confidentiality’ to the people they serve. In requesting release and disclosure of information from other agencies employees and contracted volunteers will respect this responsibility and not seek to override the procedures which each organisation has in place to ensure that information is not disclosed illegally or inappropriately. This responsibility also extends to third party disclosures, any proposed subsequent re-use of information which is sourced from another agency should be approved by the source organisation.

**3.5** An individual’s personal information must be complete and up to date and will only be disclosed where the purpose for which it has been agreed to share clearly requires that this is necessary. For all other purposes information should be anonymised.

**3.6** Where it is agreed that the sharing of information is necessary, only that which is needed, relevant and appropriate will be shared and that would only be on a “need to know” basis.

**3.7** When disclosing information about an individual, agencies will clearly state whether the information being supplied is fact, opinion, or a combination of the two.

**3.8** There will be occasions when it is legal and necessary for agencies to request that information supplied by them be kept confidential from the person concerned. Decisions of this kind will only be taken on statutory grounds and must be linked to a detrimental effect on the physical or mental wellbeing of that individual or other parties involved with that individual. The outcome of such requests and the reasons for taking such decision will be recorded.

**3.9** Careful consideration will be given to the disclosure of information concerning a deceased person, and if necessary, further advice should be sought before such information is released.

**3.10** Agencies will ensure that all relevant staff are aware of, and comply with, their responsibilities in regard both to the confidentiality of information about people who are in contact with their agency and to the commitment of the agencies to share information.

**3.11** All staff will be made aware that disclosure of personal information, which cannot be justified on legal or statutory grounds, whether inadvertently or intentionally, could be subject to agency management action.

**3.12** Organisations/agencies are responsible for putting into place effective procedures to address complaints relating to the disclosure of information, and information about these procedures should be made available to service users.

**4. Information Shared and Processes**

 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.

**4.1. Types of Information to be Shared**

**4.1.1 West Yorkshire Police** will share all or some of the following items. However, disclosure will be based upon the third principle of the Data Protection Act 1998, namely whether the information is relevant to the case and to the agency (s) requesting it. The information to be shared may consist of:

* Offences committed by young people and adults
* Orders – Action Plan / Child Curfew / Child Safety / Detention & Training / Drug Treatment & Testing / Parenting / Reparation / Sec Offender / ASBOs and other non statutory ASB interventions.
* Admissions / Evidence of Anti-Social Behaviour.
* Crime Audits
* Domestic Violence Offences
* Incident Logs (Storm or IBIS)
* Offender / Suspect details (Name, Address, DOB, etc.)
* Policing Priority Information
* Referrals to Social Services
* Safeguarding Adults Information
* Tension Information Reports
* Youth Offending Reports

**4.1.2**  **The Council** will share information in relation to:-

**4.1.2.1** Youth Offending Team:-

* Youth Offending
* YOT interventions with families including Risk Assessments
* Parenting interventions
* Court outcomes

**4.1.2.2** Education

* School Attendance
* Exclusion of pupils
* Young people attending Primary & Secondary Pupil Referral Units
* Young people at risk of exclusion, offending and anti-social behaviour
* Interventions delivered to families delivered by Education
* Young people missing and or not on roll

**4.1.2.3** Specialist Services

* Young People / families open cases & interventions & assessments of need / risk
* Safeguarding information
* Edge of Care open cases and interventions, assessment & need of risk.

**4.1.2.4** Early Years

* Involvement of families and interventions
* Children of concern

**4.1.2.5** Youth Service

* Involvement with young people and interventions

**4.1.2.6** Council benefits

* Families impacted by the social housing size rules and benefit caps

**4.1.3** **Probation**

* Involvement with families in relation to offenders under current supervision who are part of the household
* Current information with regards to risk of harm to children where recorded, and interventions that are being offered to offenders to reduce risk of harm and reoffending
* Other professionals involved with the offender where this relates to risks identified by the Families First programme
* Details about offending behaviour

**4.1.4** **Health Services**

* Involvement with families (information limited unless family consent is obtained)

**4.1.5** **JobCentre**

* Benefit information (information limited unless family consent is obtained)

**4.1.6** **Schools**

* Information on attendance and behaviour including exclusions
* Families of concern

**4.1.7** **InCommunities**

* Anti social behaviour information
* Risk factors
* Rent arrears & impact of Housing Benefits

**4.1.8** Other agencies involved in the delivery of Families First interventions

**5. Purposes for sharing information**

**5.1** , Identifying Families by the criteria outlined above as being eligible to participate in the Families First Programme.

**5.2,** Triage meetings (multi-agency case management meeting to allocate families to the appropriate tier of intervention)

**5.3**, Constituency meetings,

**5.4** Monitoring progress of the families under the Payment by Results structure and fro other performance management purposes

**5.5** Reporting progress to the national Troubled Families Team, the Bradford Children’s Trust Board and other bodies, as appropriate

**5.6** Evaluation

**6.** **Constraints on the use of information**

**6.1** The information shared must not be disclosed to any third party and must not be used or disclosed for any other purpose. It must be stored securely and destroyed when it is no longer required for the purpose for which it is provided.

**6.2** Disclosure of personal data must be relevant and only the minimum amount required for the purpose and can only be used for the purpose for which it is supplied.

**6.3** The identity of the originator must be recorded against the relevant data. No secondary use or other use may be made unless the consent of the disclosing party to that secondary use is sought and granted in writing.

**7. Consent**

* 1. Consent to sharing information for the purposes of working with the family, monitoring the family’s progress and reporting/evaluation will be sought from families at the point they are approached by the lead agency working with them.
	2. Prior to this information used to identify which families will form part of the programme will have been shared by agencies under the provisions set down in the Troubled Families Framework document, as set out in Appendix 1.
	3. Where consent is required it is the responsibility of partner agencies to seek consent from their clients to share information for the purposes identified.

**7.4** Where consent is refused or withdrawn by the data subject that information will not be used unless there is a risk of harm to the individual or others. All agencies will be required to put in place sufficient processes to ensure that the rights of the individual/family are upheld.

**7.5** It will be made clear to the data subject/s the circumstances under which information will be shared with other agencies without their consent and the implications to them of not being able to share their information. The responsibility for ensuring this lies with the partner agency.

**7.6 Sharing Information without consent**

**7.6.1** It is intended that information for the purposes of identifying families and allocating them to a level of intervention (tiers 1 – 3) and lead agency, will be shared without consent. A legal justification for this is set out in Appendix I.

As a **minimum**, individuals will be informed that information may be shared and the circumstances in which this could happen unless this poses a risk of harm or danger. As is required by the fair processing requirements of the Data Protection Act 1998, a Privacy Notice has been drafted and is included at Appendix VI.

The individuals right to confidentiality are not absolute and may be overridden if evidence that disclosure for specific purposes is necessary in exceptional circumstances. Such as

* + - * Where it is required by statute
			* Where not to share the information poses a public health risk
			* Where there is a risk of harm to any person
			* Where sharing is required to prevent crime.

Where the individual chooses to exercise their right not to provide express consent for information sharing, they must be advised of any constraints that this will put upon the service that can be provided, however the individuals wishes must be respected unless there is a statutory requirement or a significant risk of harm to an individual to override those wishes as indicated above.

**7.6.2** It may be necessary to share information without obtaining consent from the child or parent/carer when:

* The child is at risk of significant harm
* There is a risk of significant harm to another person
* The child needs urgent medical treatment
	+ The disclosure prevents the child from committing a criminal offence that could place others in jeopardy or places the assessor or any other person at risk of collusion.
* Information is requested by the police if investigating a serious crime.
* Sharing that information is required to undertake a statutory function.

**7.6.3** Where these situations apply and it is necessary to share information without consent, the reasons for doing so should be recorded. The record must contain details of any third parties and full details of all the information or evidence they have been given.

**7.6.4** Where it is not reasonably practical to obtain consent risk assessments and a proportionality test should be conducted between the individual’s right to confidentiality and the need for reasonable intrusion.

**7.6.5** Keeping children safe from harm requires professionals and others to share information. There will be situations where professional judgement indicates that information be shared without consent in order to build up a picture to determine whether or not a child is at risk of “Significant Harm” and making the family aware of this process may, in itself, increase those risks. Reasons for not making parents aware of concerns and not seeking consent to further information sharing need to be recorded.

**7.7** **Families First** **Children and Young People moving out of an Agency’s Geographical Area**

 When a Families First child or young person who is in need of a continuing service moves outside of an agency’s geographical area, and the new area is known, it is important that the agency contacts its counterpart in the child’s new area in writing (following the guidance on consent) to ensure that the child or young person’s needs are known.

 If the new location of the child or young person is unknown, and the risk to the welfare of the child would warrant sharing information without consent, enquiries should be made to find out the new location, so that information may be passed on.

**7.8 All Adults** and young peopleover the age of 16 are assumed to have capacity to consent unless it is proven otherwise (Mental Capacity Act 2005).

* A person who lacks capacity at a certain time may be able to make that decision at a later date. Consideration should be given to whether the information needs to be shared now, or could wait until a time when the person is able to consent to the information being shared.
* The 5 Key Principles in the Mental Capacity Act should be taken into account in coming to a decision about a person’s capacity.
* Where it is considered that a person does not have capacity, a record should be made of this decision and the steps taken by the professional to reach a decision about whether information should be shared

 The capacity to be able to give consent can be assessed by considering:

* has the person got the capacity to make this particular decision,
* have they got the capacity to understand and retain the information relevant to the decision,
* will they be able to understand the reasonably foreseeable consequences of deciding one way or the other,
* will they have the capacity to communicate the decision they have come to

**8. Supporting Policies, Procedures and Guidance**

**8.1** **Supporting policies**

Partners commit to ensuring that all information sharing is in line with their own existing standards, policy and guidance with reference to:

* Information Quality
* Information Security
* Data protection
* Confidentiality

Individual agencies are responsible for detailing their requirements for compliance in their individual information sharing agreements and are responsible for their own processes and procedures to monitor and ensure compliance.

These policies must cover manual, verbal and computer-based information.

Processes must be in place within agencies to regularly monitor and improve the effectiveness of these policies.

**8.2 Access and Security Procedures**

****8.2.1. Staff Access****

 Staff access to personal information will be on a ‘need to know’ basis and any specific additional restrictions agreed within agencies. Care should be taken to ensure that access to personal information is restricted on this basis. Restrictions need to be re-enforced by clear policies on confidentiality and by inclusion of appropriate confidentiality clauses in staff contracts.

If temporary members of staff, volunteers, interpreters, translators or students on placement are to have access to personal information, confidentiality requirements and access arrangements must be made clear as part of their induction process. Each agency will be responsible for checking that any staff who need to access such information have current CRB checks to the required level.

**8.2.2 Subject Access**

 Subject Access requests will be directed back to the organisation that holds the data

For any data held on Childview this will be the Council, who will process the request following their usual data protection protocols and through the Council’s Data Protection Officer. (see Section 8.9 Freedom of Information)

Other partner organisations will process the request following their usual data protection protocols.

A record of all subject access requests will be kept and retained by Families First

When an agency receives a subject access application and personal data is identified as belonging to another agency, it will be the responsibility of the receiving agency to contact the data owner to determine whether the latter wishes to claim an exemption under the provisions of the Data Protection Act.

Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the request unless:-

a) The other individual has consented to the disclosure of the information to the person making the request, or,

b) It is reasonable in all circumstances to comply with the request without the consent of the other individual.

In determining whether it is reasonable, regard should be had to:-

* Any duty of confidentiality owed to the other individual.
* Any steps taken by the data controller with a view to seeking the consent of the other individual.
* Whether the other individual is capable of giving consent, and
* Any express refusal of consent by the other individual.

**8.3. Secure storage and transfer of personal information**

Steps will be taken by all partners to ensure that personal information is held and transmitted securely. Electronic copies of documents will be password-protected, and printed copies to be stored in secure, locked files when not in use.

The Childview case management and performance management system being used by Families First is password protected and to the same security standard as other case management systems used by Bradford Council’s Children’s Services

Each partner organisation will ensure that staff have copies of their Confidentiality and Information Security policies.

Each partner organisation will take appropriate measures against unauthorised or unlawful processing and against accidental loss, destruction of or damage to personal data. The Information Commissioner has the statutory power to impose a financial penalty (up to £500,000) on an organisation if satisfied that there has been a serious breach of one or more of the data protection principles and the breach was likely to cause substantial damage or distress.

 It is expected that partners of this agreement will have in place baseline security measures compliant with BS17799: 2005 and ISO / IEC 27001: 2005 and HMG standards in relation to information security.

Information will be provided to agencies as follows:

         all paperwork which includes the details of named individuals and families will be marked ‘restricted’, in compliance with the Government Protective Marking Scheme (GPMS).

         for Bradford Council colleagues, the internal email system will be used to send and receive this information.

         For those partners with access to secure email systems, information will be sent using secure email addresses (i.e., using the Government Connect system of GCSx email addresses).

         for those agencies without access to these systems, alternatives will be discussed and agreed with each agency to ensure that restricted information can be received securely.

         all emails will be marked ‘restricted’ and attachments will be password-protected.

**8.4 Retention of records**

Agencies will keep their own records in relation to each case in accordance with their own policies on the retention of records, and in all cases retain them for no less than the three-year duration of the government’s Troubled Families programme, in order to evidence any progress within the payment-by-results framework.

Electronic copies of agendas and paperwork for the area meetings will be kept centrally, and paperwork relating to the cluster guidance and support meetings will be held in accordance with agreed arrangements.

Any records which no longer need to be retained in accordance with agencies’ own policies and procedures should be destroyed under secure conditions.

 These policies, procedures or guidelines should be subject to regular monitoring and all agencies, as data controllers, should evidence that they have checked that their shared information is being kept and processed correctly by any 3rd parties.

**8.5 Induction and continuing education**

 To support the implementation of the above-mentioned policies and procedures appropriate staff induction, training programmes and awareness raising sessions must be made available within the agencies.

# 8.6 Data Quality

Shared data needs to be of sufficient quality for its intended purpose, this is an essential requirement to all data users and underpins the timely and effective delivery of services to those in need. Several characteristics of good data quality have been identified and in summary they are:

**Accuracy** – Data should be accurate so as to present a fair picture of circumstances and enable informed decision-making at all appropriate levels. Definitions for data should be specific and unambiguous.

**Validity** – Data should represent clearly and appropriately the intended result and should be used in accordance with the correct application of any rules or definitions.

**Reliability** – Data should reflect stable and consistent data collection processes that need to be fit for purpose and incorporate controls and verification procedures.

**Timeliness** – Data input should occur on a regular ongoing basis rather than being stored to be input later. Verification procedures should be as close to the point of input as possible.

**Relevance** – Information collected should comprise the specific items of interest only. Sometimes definitions need to be modified to reflect changing circumstances in services and practices, to ensure that only relevant data of value to users is collected, analysed and used.

**Completeness** – All the relevant data must be recorded. Missing or invalid data can lead to incorrect judgement and poor decision-making.

**8.7 Amendments to the Agreement**

Any partner may make suggestions for amendments to the agreement at any time.

To enable partners to exchange views prior to changes being made it is suggested that such changes be discussed at the appropriate forum. No changes can be made unless each is agreed

**8.8 Indemnity**

All partners as receivers of Families First information will accept total liability for a breach of this Information Sharing Agreement should legal proceedings be served in relation to the breach

**8.9 Freedom of Information**

The Freedom of Information Act 2000 gives people the right to request information from public authorities or any publicly-funded organisation. In each public organisation’s Freedom of Information Publication Scheme on their Internet site, details of how to contact he Freedom of Information Officers are given. Requests must be passed to that Officer in the first instance.

* In public organisations, that officer will handle the request.
* In non-statutory organisations, the request must be passed to the appropriate Manger of Chair of the partnership

Should a Freedom of Information Act request be received, before a response is finalised and released to the requester, ALL interested parties will be informed as to the likely response and their views sought.

**9. Approval, implementation and review**

**9.1 Agreeing the protocol**

 This Protocol proposes a consistent approach to the development of information sharing agreements.

 Appendix VIII provides the formal memorandum of agreement

**9.2 Implementation**

 Following approval of the protocol agencies will need to take action, either individually or jointly, on the following issues:

|  |  |
| --- | --- |
| Agencies | **Actions** |
| All agencies | * Promoting ownership of responsibilities associated with the protocol
* Ensuring dissemination and appropriate implementation
* Reviewing existing support policies, procedures and guidance.
* Agreeing training and awareness programmes
* Auditing and monitoring the implementation and compliance of existing agreements
* Establishing review processes
* Joint work to develop standard service specific agreements
* Ensuring amendments to existing agreements
* Agreeing audit processes
* Maintaining local registers of agreements.
 |
| Families First Strategic | * Reviewed every 12 Months
 |

**9.3 Monitoring and review processes**

 Formal review of the protocol will be held at yearly intervals unless legislative changes require immediate action.

New parties to this agreement may be included at anytime, the formal arrangements for which will be managed by Bradford Council and agreed by the other partners.

If any circumstances change the agreement will be amended to reflect such changes.

If there is no longer any justification for sharing the data the arrangement must come to an end.

1. **Complaints**

**10.1** In the first instance any complaints should be made to the Manager of Families First at Flockton House, Bradford.

 **10.2** Complaints to partner organisations will be dealt with according to the policies set out in their own Data Protection protocols.

 **10.3** Complaints from data subjects, or their representatives, regarding information held by the Partnership will be investigated first by the organisation receiving the complaint. Action that affects other signatories will not be taken without the consent of all parties to this agreement.

**10.4** Sanctions for the breach of any of the terms of the data sharing agreements or breaches by individual staff. will be applied as specified in the information protocols of their organisations.

**11. Conclusion**

 All agencies are in the position of having to balance the conflicting demands of the need and requirement to share information with other agencies with the responsibility to maintain the highest level of confidentiality.

 This protocol acknowledges these competing demands and provides a means whereby members of the public, staff and the agencies can be confident that where information is shared it is done so appropriately and securely.

### APPENDIX I

**The Legislative Basis for sharing information for the purposes of ‘ Families First’**

**Legal Gateways**

The Localism Act 2011 – Local Authorities general power of competence.

The Localism Act 2011 provides wide ranging powers for local authorities.

Part 1, Chapter1 states:

“(1) A local authority has power to do anything that individuals generally may do …..

(4)( c) …for… the benefit of the authority, its area or persons resident or present in its area.”

Prior to the enactment of this legislation, local authorities were able to do only what was required of them by law. Activities not described in statute were outside the powers of an authority. The general power of competence removes that restriction, enabling authorities to do anything that may generally be done by individuals, and also provides that the power may be used in innovative ways, that is in doing things that a local authority or other public body may not have done before.

The information sharing proposed within the Families First programme may be justified because it will enable practitioners to design and deliver timely and better co-ordinated services to families and as such it may be considered that there is sufficient reason to do so. This will provide benefits to those families and will benefit wider communities by the better use of public resources.

The general power of competence does not override existing legislation; therefore the proposed data sharing must still comply with the Data protection Act 1998 and with the eight Data Protection principles contained within schedule 1 of the act.

The information required for Families First will be of a personal and sometimes sensitive nature, therefore a condition on both schedules 2 and 3 of the Data protection Act must be satisfied by the Local Authority in order for information to be legally shared. **Partners who are not covered by the Localism Act 2011 must satisfy themselves that they have sufficient legal powers to share their information.**

The ICO has advised that the following justification may be used to satisfy both schedules 2 and 3 of the Data Protection Act.

**Schedule 2 Justification**

Data protection Act 1998, Schedule 2, Section 6 ( 1 ):

“ The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.”

The data sharing proposed may be considered in the legitimate interests of the data controller - The legitimate interest being to improve the delivery of services to families deemed eligible for support. The sharing of information will enable professionals to deliver better targeted interventions delivering direct benefits to the data controller’s client group.

**Schedule 3 Justification**

Data protection Act 1998, schedule 3, section 10:

“The personal data are processed in circumstances specified in an order made by the Secretary of State for the purposes of this paragraph”

The relevant order to satisfy this condition is ‘Statutory Instrument 417, 2000 – the Data Protection (Processing of Sensitive Personal Data) Order 2000, section 4:

“The processing –

1. is in the substantial public interest
2. is necessary for the discharge of any function which is designed for the provision of confidential counselling, advice, support or any other service; and
3. is carried out without the explicit consent of the data subject because the processing –
4. is necessary in a case where consent cannot be given by the data subject
5. is necessary in a case where the data controller cannot reasonably be expected to obtain the explicit consent of the data subject, or
6. Must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice the provision of that counselling, advice, support or other service.

The provision of support proposed within the families first model may be considered within the substantial public interest as it will help services deliver more effective and better targeted support to families with complex needs and reduce the dependency of that family on public services, thereby having a significant positive impact on pubic expenditure.

In order to target services better and understand the needs of the families engaged upon the programme it is necessary to have access to all personal and sensitive information deemed necessary for the discharging of the functions of the services involved. The inability to access vital information will result in less effective service delivery thereby prejudicing the provision of the ‘Families First’ programme.

**Other Legal Gateways**

Where partners feel that the above justification does not offer a sufficient legal basis for the sharing, the following legal gateways may also be applicable:

**Welfare Reform Act 2012** – Section 131 and expected Social Security Regulations 2012 restores and widens powers to share information with the LA in relation to welfare services.

**Welfare Reform Act 2012** – Section 134 allows for longer term data sharing powers between DWP, their service providers and local authorities in particular to Troubled Families and their ‘in work’ and ‘out of work’ benefits.

**S115 Crime and Disorder Act** – This provision allows the police, local authorities, health authorities, probation trusts to share information about any person for the purposes of preventing future crime and disorder.

**S17 Children Act 1989** – Local authorities may collect and share this information under these implied powers in order to support/protect children. As the data shared is likely to be considered ‘sensitive’ (under the terms of the DPA) authorities should only share this data for the purposes of identifying their troubled families.

**Authority for sharing information with Job Centre Plus**

The Financial Framework for the Troubled Families programme’s payment-by-results scheme for local authorities sets out advice on the legal authority for sharing information with Job Centre Plus for the purpose of identifying the families.

Finding the families with adults on benefits

In order to complete the identification process, you will need to share this data with the Jobcentre Plus. As far as possible, you should make schools aware that you intend to use this information for these purposes. Local authorities may collect and share this information under the implied powers of section 17 of the Children Act 1989 in order to support/protect children. As the data shared is likely to be considered ‘sensitive’ (under the terms of the Data Protection Act), you should only share this data for the purposes of identifying your troubled families.

Following discussions with the Troubled Families Team, Department for Work and Pensions Ministers have agreed to create a new legal gateway under the regulations of the Welfare Reform Act 2012. This will allow the Department for Work and Pensions to share data with local authorities – without informed consent – for the sole purpose of identifying troubled families.

The Framework sets out the specific data sharing process to be followed:

* The local authority should set up a GCSX secure email account exclusively for the purpose of sharing data with Department for Work Pensions for the identification of its troubled families.
* Once the local authority has identified families who meet one or both of the crime/ anti-social behaviour or education criteria, the local authority should share the list with a named contact in the local jobcentre, using the GCSX email account.
* As far as possible, local authorities should try to share the names of the people on this list as this will be easier and quicker for jobcentres to process within their systems.
* Local jobcentres will then check the list supplied to check if the named adults are claiming out of work benefits, and which benefits. They will also provide information about whether these adults are currently receiving support from either the Work Programme or European Social Fund provision.
* Where the named family members who meet the initial crime/ anti-social behaviour and education criteria are all children, Department for Work Pensions will still be able to use this information to identify adults (where the adult is the parent of the child). Furthermore, Department for Work Pensions will also be able to identify the partners and spouses of adults who are identified under the crime/ anti-social behaviour criterion.

**APPENDIX II**

**Data Protection Act 1998**

The key legislation governing the protection and use of identifiable patient/client information (Personal Data) is the Data Protection Act 1998. The Act does not apply to information relating to the deceased.

This Act gives seven rights to individuals in respect of their own personal data held by others. They are:

* Right of subject access
* Right to prevent processing likely to cause damage or distress
* Right to prevent processing for the purposes of direct marketing
* Rights in relation to automated decision making
* Right to take action for compensation if the individual suffers damage
* Right to take action to rectify, block, erase or destroy inaccurate data
* Right to make a request to the Commissioner for an assessment to be made as to whether any provision of the Act has been contravened.

In addition, the Act stipulates that anyone processing personal data comply with eight principles of good practice. These principles are legally enforceable.

**Principle 1** – Personal data shall be processed fairly and lawfully

**Principle 2** – Personal data shall be obtained only for one or more specified lawful purposes

**Principle 3** – Personal data shall be adequate, relevant and not excessive in relation to the purposes for which they are processed.

**Principle 4** – Personal data shall be accurate and, where necessary, kept up to date.

**Principle 5** – Personal data processed for any purpose or purposes shall not be kept longer than is necessary for that or those purposes.

**Principle 6** – Personal data shall be processed in accordance with the rights of data subjects under this Act, including the right to access their own record.

**Principle 7** – Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss.

**Principle 8** – Data shall not be transferred outside of the European Economic Area

Detailed information for staff about the requirements of the Act in relation to information sharing is available in each agency

**SCHEDULE 2:**

**CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE: PROCESSING OF ANY PERSONAL DATA**

**1.** The data subject has given his consent to the processing.

**2.** The processing is necessary -

(a) For the performance of a contract to which the data subject is a party, or

(b) For the taking of steps at the request of the data subject with a view to entering

into a contract.

**3.** The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.

**4.** The processing is necessary in order to protect the vital interests of the data subject.

**5.** The processing is necessary -

(a) For the administration of justice,

(b) For the exercise of any functions conferred on any person by or under any

enactment,

(c) For the exercise of any functions of the Crown, a Minister of the Crown or a

Government department, or

(d) For the exercise of any other functions of a public nature exercised in the

public interest by any person.

**6.** (1) The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except

where the processing is unwarranted in any particular case by reason of prejudice to the

rights and freedoms or legitimate interests of the data subject.

(2) The Secretary of State may by order specify particular circumstances in which this

condition is, or is not, to be taken to be satisfied.

**SCHEDULE 3**

**CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE:**

**PROCESSING OF SENSITIVE PERSONAL DATA**

**1.** The data subject has given his explicit consent to the processing of the personal data.

**2.** (1) The processing is necessary for the purposes of exercising or performing any right

or obligation which is conferred or imposed by law on the data controller in connection

with employment.

(2) The Secretary of State may by order-

(a) exclude the application of sub-paragraph (1) in such cases as may be

specified, or

(b) provide that, in such cases as may be specified, the condition in subparagraph

(1) is not to be regarded as *satisfied unless such further*

*conditions as may be specified in the order are also satisfied*.

**3.** The processing is necessary-

(a) in order to protect the vital interests of the data subject or another

person, in a case where-

(i) consent cannot be given by or on behalf of the data

subject, or

(ii) the data controller cannot reasonably be expected to

obtain the consent of the data subject, or

(b) in order to protect the vital interests of another person, in a case where

consent by or on behalf of the data subject has been unreasonably

withheld.

**4.** The processing-

(a) is carried out in the course of its legitimate activities by any body or

association which-

(i) is not established or conducted for profit, and

(ii) exists for political, philosophical, religious or trade union

purposes,

(b) is carried out with appropriate safeguards for the rights and freedoms

of data subjects,

(c) relates only to individuals who either are members of the body or

association or have regular contact with it in connection with its purposes,

and

(d) does not involve disclosure of the personal data to a third party without

the consent of the data subject.

**5.** The information contained in the personal data has been made public as a result of

steps deliberately taken by the data subject.

**6.** The processing-

(a) is necessary for the purpose of, or in connection with, any legal

proceedings (including prospective legal proceedings),

(b) is necessary for the purpose of obtaining legal advice, or

(c) is otherwise necessary for the purposes of establishing, exercising or

defending legal rights.

**7.** (1) The processing is necessary-

(a) for the administration of justice,

(b) for the exercise of any functions conferred on any person by or under

an enactment, or

(c) for the exercise of any functions of the Crown, a Minister of the Crown

or a government department.

(2) The Secretary of State may by order-

(a) exclude the application of sub-paragraph (1) in such cases as may be

specified, or

(b) provide that, in such cases as may be specified, the condition in subparagraph

(1) is not to be regarded as satisfied unless such further

conditions as may be specified in the order are also satisfied.

**8.** (1) The processing is necessary for medical purposes and is undertaken by-

(a) a health professional, or

(b) a person who in the circumstances owes a duty of confidentiality

which is equivalent to that which would arise if that person were a health

professional.

(2) In this paragraph "medical purposes" includes the purposes of preventative medicine,

medical diagnosis, medical research, the provision of care and treatment and the

management of healthcare services.

**9.** (1) The processing-

(a) is of sensitive personal data consisting of information as to racial or

ethnic origin,

(b) is necessary for the purpose of identifying or keeping under review the

existence or absence of equality of opportunity or treatment between

persons of different racial or ethnic origins, with a view to enabling such

equality to be promoted or maintained, and

(c) is carried out with appropriate safeguards for the rights and freedoms

of data subjects.

(2) The Secretary of State may by order specify circumstances in which processing

falling within sub-paragraph (1)(a) and (b) is, or is not, to be taken for the purposes of

sub-paragraph (1)(c) to be carried out with appropriate safeguards for the rights and

freedoms of data subjects.

18th October, 2006**APPENDIX III**

**Summary of Key Legislation and Guidance**

* Common Law Powers of Disclosure
* Children’s Act 1989
* Access to Health Records 1990
* Data Protection Act 1998
* Crime and Disorder Act 1998
* Human Rights Act 1998
* Freedom of Information Act 2000
* The Children Act 2004
* Safeguarding Vulnerable Groups Act 2006
* Education Act 2002
* NHS Confidentiality Code of Practice 2003
* Working Together to Safeguard Children 2005
* Mental Capacity Act 2005
* Local Government Act 2000
* Homelessness Act 2002
* SEN Code of Practice 2002
* Criminal Justice Act 2003
* Civil Contingencies Act 2004
* Disability Discrimination Act 2005
* Localism Act 2011
* Safeguarding Children in Education DFES 2004
* Education DFES 2004
* Welfare Reform Act 2012

**1.0 The Children Act 1989**

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 serious harm. Section 27 says that the local authority may request the help of any authority or person in:

* Any local authority
* Any local education authority
* Any health authority
* Any person authorised by the Secretary of State for assistance in the exercise of their statutory functions which includes the provision of services for children in need and the sharing of information for these purposes.

The Act also enables 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 if to do so would not compromise the carrying out of their functions and the request is lawful. 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 wellbeing, or to be involved in an assessment under s17 or a child protection enquiry.
* To undertake specific types of assessments as part of a Core Assessment or to provide a service for a child in need.
* To provide a report and attend a child protection case conference. The Act does not require an unwarranted breach of confidence, but an authority should not refuse a request without considering the lawfulness of the request, the relative risks of sharing information, if necessary without consent, against the potential risk to a child if information is not shared.

**2.0 The Children Act 2004**

Under Section 11 of the Children Act 2004, Local Authorities with responsibilities for Children’s Services, and all partner agencies, have a responsibility for making arrangements to ensure their normal functions are discharged having regard to safeguarding and promoting the welfare of children in their area.

The key people and bodies are:

• Local authorities (including district councils)

• The police

• The probation service

• NHS bodies

• Connexions

• Youth Offending Teams

• Governors / Directors of Prisons and Young Offender Institutions

• Directors of Secure Training Centres

• The British Transport Police

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 wellbeing of children in their area in relation to:

• Physical and mental health, and emotional wellbeing

• Protection from harm and neglect

• Education, training and recreation

• Their positive contribution to society

• Social and economic wellbeing

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

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

**3.0 Local Government Act 2000**

The Local Government Act 2000 aims to improve the wellbeing of people and communities.

**Section 2**

Gives local authorities ‘a power to do anything which they consider is likely to achieve any one or more of their objectives’:

• To promote or improve the economic wellbeing of their area

• To promote or improve the social wellbeing of their area

• To promote or improve the environmental wellbeing of their area

It has been argued that Section 2 (1) provides a wide basis for sharing information wherever that information is required to enable the local authority to fulfil it’s functions, which promote the well being of people [including children] within it’s area. It is of particular relevance because it is designed to ensure that service delivery is coordinated in ways which minimise duplication and maximise effectiveness.

Section 2 (5) makes it clear that a local authority may do anything for the benefit of a person outside their area, if it achieves one of the objectives of Section 2 (1).

However, the actual disclosure of any information to achieve these objectives must be conducted within the framework of the Data Protection Act and the Human Rights Act and give due consideration given to the Common Law Duty of Confidence. It is also subject to any express prohibition in legislation.

**4.0 Education Act 2002**

The Section 11 duty of the Children Act 2004 complements the duty placed by Section 175 of the Education Act 2002 on Local Education Authorities 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).

Proprietors of Independent Schools also have a duty to safeguard and promote the welfare of pupils at the school under **Section 157 of the Education Act 2002 and the Education (Independent Schools Standards) Regulations 2003.**

**5.0 Education Act 1996**

**Section 13**

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

**Section 434 (4)**

Provides for regulations containing implied powers for LEA to obtain information about school attendance.

**6.0 Learning and Skills Act 2000**

Section 117: Sets out the duties on maintained schools and LSC funded providers to provide relevant information in order to help ensure continuity of service for Young People who move to another area.

Section 119: Enables the Secretary of State to supply info to any person for the purposes of the provision of the Connexions Service, specifically social security information.

**The Education (SEN) (England) (Consolidation)Regulations 2001: Regulation 6**

When the local education authority 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) or a head of SEN where the child is receiving education from an early education provider asking for relevant information.

Regulation 18 provides that authorities shall serve notices on schools the Connexions services, health authorities listing those children with statements of SEN and for whom the authority is responsible.

**7.0 Children (Leaving Care) Act 2000**

The Act's main purpose 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.

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.

**8.0 Protection of Children Act 1999**

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.

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

**9.0 Immigration and Asylum Act 1999**

**Section 20** : 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.

**10.0 Crime and Disorder Act 1998**

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.

Section 17 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.

The purpose of section 17 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, Youth

Offending Teams, Children’s Trusts and Local Safeguarding Boards.

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.

Section 39(5) of the Crime and Disorder Act 1998 sets out the statutory membership of **Youth Offending Teams** 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.

Youth Offending Teams have a statutory duty to deliver youth justice services including advising courts, administrating community sentences and interventions, and working with juvenile custodial establishments. Youth Offending Teams are responsible for the supervision of children and young people subject to statutory disposals.

As Youth Offending Teams 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.

Section 115 provides a power but not an obligation for disclosure of information sharing 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.

The police have an important and general 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, Probation Service and Health Authority (or anyone acting on their behalf) for the purposes of the Act.

This enables information to be shared for a range of purposes covered by the Act e.g. for the functions of the Crime and Disorder Reduction Partnerships and Youth Offending Teams, the compilation of reports on parenting orders, antisocial behaviour orders, sex offender orders and drug testing orders. Section 115 was amended by the Police Reform Act 2002 to include parish councils and community councils, therefore enhancing the

benefits to share information with partner agencies.

**11.0 The National Health Service**

**The role of the NHS in safeguarding and promoting the welfare of children**.

Section 11 of the Children Act 2004 applies to a number of NHS organisations in England

• Strategic Health Authorities

• Designated Special Health Authorities

• Primary Care Trusts

• NHS Trusts

• NHS Foundation Trusts

As part of their duties under Section 11 of the Children Act 2004 all NHS staff need to ensure as part of their work with children and families, and with adults who are parents or carers who are experiencing personal problems, that the needs of their children are considered and that where necessary they are assessed and appropriate referrals made.

**National Health Service Act 2006**

To provide 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.

Share information with other NHS professionals and practitioners from other agencies carrying out health service functions that would otherwise be carried out by the NHS.

Share information in order for Health to exercise their health service function and for the local authority to exercise its function in order to secure and advance the health and welfare of the people of England and Wales.

**12.0 The Health and Social Care (Community Health and Standards) Act 2003**

**Core Standard 2** is relevant to safeguarding and promoting the welfare of children and states ‘Health care organisations protect children by following national child protection guidance within their own activities and in their dealings with other organisations’.

**The National Service Framework**

The National Service Framework sets out in Standard 1 – Promoting health and wellbeing, identifying needs and intervening early: As part of the promotion of the positive mental health of all children and young people, assessment of need and early intervention where children are at greater risk (e.g. Children whose parents are unsupported by wider family) can make a significant difference.

The National Service Framework sets out in Standard 5 what should ensure the safeguarding of children and young people and the promotion of their welfare.

**Welfare Reform Act 2012**

 **APPENDIX IV**

**Glossary of Terms**

**Agencies**

Used in the context of this document to relate to the organisations specified within appendix IV which details the organisations that are signatories to this protocol.

**Anonymised Information**

This is information which does not identify an individual directly, and which cannot reasonably be used to determine identity. Anonymisation requires the removal of name, address, full postcode and any other detail or combination of details that might support identification.

**Disclosure**

This is the divulging or provision of access to data.

**Explicit Consent**

This means articulated agreement and relates to a clear and voluntary indication of preference of choice, usually given orally or in writing and freely given in circumstances where the available options and the consequences have been made clear.

**Implied Consent**

This means agreement that has been signalled by the behaviour of an individual with whom a discussion has been held about the issues and therefore understands the implications of the disclosure of information.

**Information**

Within this Protocol information could include personal and/or sensitive personal data

**Information Sharing Protocol**

The protocol is the high level document setting out the general reasons and principles for sharing data. The protocol will show that all signatory agencies are committed to maintaining agreed standards on handling information and will publish a list of senior signatories. It should be underpinned by information sharing agreements between the organisations who are actually sharing the information.

**Information Sharing Agreement**

The agreement is a more detailed document the intention of which is to spell out how the organisations involved will operate the approach to information sharing. Agreements will be produced where organisations specifically identify a purpose to share information across organisational boundaries. The agreement should state whether partners are obliged to, or are merely enabled to, share data.

**APPENDIX V**

**The ICO view of data sharing in the context of the “Troubled families” initiative**

While the general public policy questions around sharing information for the purposes of assisting “troubled families” are not considerations for the ICO, we recognise that there such sharing will have to meet the requirements of the Data Protection Act (the Act).

The key issue to consider is whether processing information relevant to this initiative can be done in such a way so as to meet the requirements of the data protection principles and in particular the first data protection principle. This states that personal (and sensitive personal) data must processed “fairly and lawfully” and further must not be processed unless a Schedule 2 condition can be satisfied, and in the case of sensitive personal data, unless a Schedule 3 condition can be also be met.

The first point to consider is whether a data controller has the lawful authority to share/disclose such information. For example in the Localism Act 2011 local authorities have been given a general power of competence (provided for in s1 of the Act). It gives local authorities the same power to act that an individual generally has and provides that the power may be used in innovative ways, that is, in doing things that are unlike anything that a local authority - or any other public body - has done before, or may currently do. We consider that in terms of information sharing this will allow local authorities to do so. Other public sector bodies might not have the same ability/power. It will be up to these organisations to determine whether they have the necessary legal powers (either implied or statutory) to share information.

Once it has been established that a data controller does have the “lawful” power to share personal data it would then need to satisfy a Schedule 2 condition for processing and where sensitive personal data is involved, a Schedule 3 condition. It should be remembered though that even where a condition or conditions for processing can be met this will not on its own ensure that the processing is fair or lawful. These issues need to be considered separately.

It is also worth briefly looking at the issue of “consent” To us “consent” means just that. For example someone is asked if their information can be used in a certain way. If they agree then fine, but if they refuse their consent, then in our view, their wishes should be respected and the information should not be used. What we dislike is where “consent” is sought, it is refused but the data controller goes ahead anyway. That does not fit with how we view consent nor does it meet the Act’s fair processing requirements.

In addition it needs to be remembered that in data protection terms “consent” is but one condition that could be relied on to process personal and sensitive personal data. There are several other conditions that it may be possible to rely on depending on the purpose of the processing (and which are set out in Schedule 2 and in Schedule 3).

In terms of meeting a Schedule 2 condition there are two that could be relied on. In the circumstances of the “troubled families” initiative these are:

5. he processing is necessary –

(d) for the exercise of any other functions of a public nature exercised in the public interest

by any person.

or

6. – (1) The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

Meeting a Schedule 3 condition is more difficult (and which is the way it should be). However in these circumstances we consider that a condition provided for in SI 417 (2000) could be met, namely:

The processing –

(a) is in the substantial public interest;

(b) is necessary for the discharge of any function which is designed for the provision of confidential counselling, advice, support or any other service; and

(c) is carried out without the explicit consent of the data subject because the processing –

(iii) must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice the provision of that counselling, advice, support or other service.

What will be important is the provision of fair processing information to the individuals involved, with more information being required where the data sharing is more extensive. Such material should make it clear to individuals about how their information is being used and where they can find out more about the processing and/or object to the processing (the latter point covering s10 of the DPA).

It is also important to ensure that the other DP principles are complied with eg the information shared needs to be relevant and not excessive; it must be accurate and kept up to date, not kept for longer than necessary and kept secure.

Finally further information about sharing information can be found in our statutory Data sharing code of practice and a link to the relevant page on the ICO website is set out below:

<http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/data_sharing.aspx>

Additional information about fair processing and privacy notices can be found in our Privacy Notices Code of Practice. The link below goes to the relevant page of the ICO website:

<http://www.ico.gov.uk/for_organisations/data_protection/topic_guides/privacy_notices.aspx>

If we receive complaints about the processing of personal data in these circumstances then we will take it into account where the processing has been carried out in accordance with the recommendations made in the respective codes of practice.

APPENDIX VI

**Compliance with the eight principles of the Data Protection Act**

**1. Personal data shall be processed fairly and lawfully and shall not be processed unless-**

**( a ) at least one of the conditions in Schedule 2 is met, and**

**( b ) in the case of sensitive personal data, at least one of the condition in schedule 3 is also met**

As stated above conditions within both schedules 2 and 3 are able to be met.

Data subjects will be informed of the data processing that will take place through the programme by the provision of a Privacy Notice that will be developed in line with ICO guidance and best practice.

Information on how to get further details on the data sharing taking place will be made clear.

**2. Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processes in any manner incompatible with that purpose or those purposes.**

The information processing within the programme will be undertaken solely for the purposes of delivering the Families First programme.

**3. Personal data shall be adequate, relevant and not excessive in relation to the purpose for which they are processed.**

The data processing will be limited to only that data deemed relevant and necessary to meet the objectives of each stage of the Families First Programme.

**4. Personal data shall be accurate and, where necessary, kept up to data.**

Appropriate procedures will be put in place to ensure data received is of good quality and remains good quality with appropriate roles and responsibilities agreed with partners.

**5. Personal data processed for any purpose or purposes shall not be kept for longer than necessary for that purpose or those purposes.**

Appropriate retention schedules will be developed and maintained accordingly.

**6. Personal data shall be processed in accordance with the rights of data subjects under this act.**

All data processing within the programme will be undertaken in accordance with the rights of the data subject:

Data subjects will be advised of their rights to access the information held about them by the data controllers; where consent is sought, it will be meaningful and managed appropriately; where information is shared it will be relevant, proportionate and managed securely.

Due consideration will be given to the impact on privacy balanced against possible benefits.

 **7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.**

Information security policies and procedures will be agreed in accordance with Bradford Council’s and partner’s stipulations.

Procedures, roles and responsibilities for dealing with breaches will be agreed with partners.

**8. Personal data shall not be transferred to a country or territory outside the European Economic Area 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.**

The Families First programme will not involve the transfer of data outside of the EEA.

**APPENDIX VII**

**Draft Local Authority Privacy Notice**

**Points to note:**

* The drafting of this notice has been kept short to take into account its use as part of a referral form and the nature of the programme.
* A layered approach is recommended where by further detail is available on request – this could be via a leaflet or webpage and consideration should be given to how this might be done.
* The data subject has the right to know what data is held about them, how this is used and managed and make a complaint. It is important to make this process as clear and transparent as possible.
* The data subject has the right to request that their information is not used, this should be explained in the further detail, consideration needs to be given to who will deal with clients wishing to request that their information is not used.
* This privacy notice covers the Local Authority – partners will need to review their own privacy notices to ensure they are sufficient for the approach taken by Families First.

In order for Bradford Council to plan the services offered to you through the Families First programme it is important that we are able to request information about you and your family from other service providers. This information will include personal details, for example names, address, dates of birth and may be sensitive in nature. It will include information on the services that you and/or members of your family are currently receiving or have received in the past. The information will be used to form a detailed picture of your family’s circumstances so that we can provide the right services at the right time for you, this may mean that information about individuals within your family may be disclosed to, discussed and recorded by Bradford Council and the service providers engaged within the Families First programme.

We will only collect and share information for this purpose and we will only collect information that we need and that is relevant to help us identify the best support for your family. Information will not be shared with any organisation that is not involved with your family unless we are required to by law, or because we believe there is a risk of harm to you or another member of your family if we did not share the information.

For more information about the information that is held about you, how we use your information and how it is kept safe by us, or if you wish to make a complaint please

For more information about the information that is held about you, how we use your information and how it is kept safe by us, or if you wish to make a complaint please contact Bradford Council’s Data protection officer on 01274 434506.

APPENDIX VIII

FAMILY FIRST INTER-AGENCY PROTOCOL FOR SHARING INFORMATION

# MEMORANDUM OF AGREEMENT version 1. 26 September 2013

The signatory agencies to this agreement endorse the vital importance of the sharing of information between the agencies to support the provision of effective and efficient delivery of the family first programme in Bradford.

The signatory agencies are committed to working in partnership on this and future information sharing activities and recognise that without such sharing the increasing amount of initiatives requiring a multi-agency approach cannot be fully achieved.

The signatory agencies accept and support the principles and processes identified in the Inter-Agency Information Sharing Protocol.

The signatory agencies are committed to ensuring that their agencies have in place the appropriate policies, procedures and training to maintain the security and confidentiality of shared information.

The signatory agencies are committed to the monitoring and review of the information sharing processes arising from this protocol.

**APPENDIX IX Signature**

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| --- | --- | --- |
| Name | School –position  | Signature – date  |
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