

# Response ID ANON-9DCT-7CNX-M

Submitted to **Information Sharing for Child Protection Purposes**

Submitted on **2019-07-30 13:44:24**

## Introduction

### 1 What is your name?

**Name:**

Dr Gerry Lynch

### 2 What is your organisation?

**Organisation:**

Royal College of Psychiatrists Northern Ireland (RCPsych NI)

**3 Anonymised comments may be published on this site or on the Department of Health website and in the resulting report on the consultation. If you are replying on behalf of an organisation, only the name of the organisation will feature in this report.**

I Agree

### 4 What is your role within the organisation?

**Q4:**

Chair of RCPsych NI and Vice Chair of RCPsych

## Questions

**5 Overall, do you think the draft guidance will give practitioners the confidence to know when and how they can lawfully share information for child protection purposes?**

No

**If no, why not?:**

The draft guidance is complicated and references several different pieces of legislation and categories. While it presents a helpful integrated summary of information governance and human rights considerations in a complex area, it needs considerable work to achieve its aim of improving confidence. The document could usefully be supplemented by, for example, clinical examples, pathways or flowcharts that might improve confidence in decision making. Practitioners require a clear guide for practice - if they referred to this guidance, they are likely to be more confused.

The guidance should cross-reference advice from professionals, such as the GMC and the NMC, to give practitioners reassurance that it is consistent with their professional obligations.

**6 Do you think the draft guidance accurately and adequately describes the legal framework within which the sharing of personal information for child protection purposes takes place?**

No

**If no, why not?:**

The presentation is too complicated and confusing to be really useful to practitioners in their day-to-day work. As noted above, the addition of a more accessible structure (case examples, flowcharts) would be helpful. While it describes the legal frameworks, several pieces of legislation are referenced and it is unclear how they all match up.

**7 Are the principles set out in the draft guidance to be applied to the sharing of personal information for child protection purposes clear? (Section 3)**

No

**If no, why not?:**

Abbreviations and headings are not consistently clearly defined; "Subject Access Requirements 3-10 is not appropriate for Article 66" (not described); it is not entirely clear why this is inappropriate; a glossary of abbreviations and a relevant summary of Article 66 might be helpful.

The concepts of proportionality and fairness could be expanded upon.

**8 Do paragraphs 3.33, 3.34 and 3.35 cover the most likely scenarios of information sharing for child protection purposes within HSCTs?**

Yes

**If no, why not?:**

**9 Do you have any comments on the draft guidance at section 4 on the sharing of personal information with other third parties for child protection purposes?**

**Answer below :**

If a HSC Trust has no formal protocol in place with a third party - how can the standard and outcome of information transfer be safeguarded and monitored? It is not clear who these third parties would be. This section needs to be more explicit, particularly given that it states that the PSNI must be consulted in these cases.

**10 Do you have any comments on the draft guidance at section 7 on information sharing on child protection public protection purposes?**

**Answer below :**

Whose responsibility will it be to develop procedural guidance on multi-agency meetings on a regional basis?

**11 Are you aware of other relevant information documents, not already listed in the draft guidance, which would be useful to practitioners seeking to share information for child protection purposes to read in conjunction with this guidance?**

Yes

**If yes, please comment below :**

Practitioners might be made aware of the Mental Capacity Act (NI) 2016 and its implications pertaining to restrictive practices. As noted previously, professional regulatory guidance on confidentiality should be referred to in this document.

**12 It is proposed that the draft guidance will replace existing HSS Circular 3/96, and that HSCT procedures for sharing information for child protection purposes will be developed and agreed on a regional basis. Do you agree that procedural guidance should be developed?**

Yes

**Please explain:**

The document reads as if it is institutional guidance and not directed at the needs of professionals who are regularly faced with making difficult decisions in this area in their clinical practice. Procedural guidance is vital.

**13 Please use the box below to insert any further comments, recommendations or suggestions you would like to make in relation to the draft information sharing guidance**

**Answer below :**

Whilst fully accepting the paramouncy principle, the decision to disclose information without consent - and the duty, on some occasions, of the clinician to inform the person that the information will be shared without consent - has the potential to cause real harm to the person concerned and may place the clinician in an invidious position.

Therefore there must be developed a clear process to be followed when information is requested- detailing the reasons (a) why the person is requesting the information (table in section 3.36 is helpful), (b) why the person requesting the information believes the threshold for disclosure has been reached and (c) specifying what particular aspect or amount of information is required (to satisfy the proportionality principle).

The proportionality principle should take into account the potential detrimental effect on the individual's mental health and the risk of disengagement with services if information is shared (which may have the unintended consequence of increasing risk).

In addition, clinicians should not be put in the position of being asked for an opinion when the question is one of information sharing.

It may be helpful to design standardised forms to be used when requesting information-sharing.

It is vital that patients with mental illness who have children, or who have contact with children - should not, simply on account of their having a mental illness - be seen to present a risk to children and therefore fall under the remit of this guidance.

An information leaflet should be produced for those patients or clients who may be affected by this guidance, describing the legal position, including their rights of reply (see section 3.37). This could be given to all patients prior to their first contact with services so that they are clear about Trusts' statutory duties.

Once procedural guidance has been developed, training for clinical staff must be put in place.

## **Promotion of Equality of Opportunity and Rural Impact**

**14 Are you aware of any likely impact on equality of opportunity for any of the Section 75 equality categories?**

**Please explain:**

The guidance in this form would be inaccessible to practitioners and members of the public in the intellectual disability community, especially those with reading disabilities.

**15 Are there opportunities for the guidance to better promote equality of opportunity for people within the Section 75 equalities categories?**

Yes

**If yes, please specify:**

It is not clear whether this document has been in any way "co-produced" with representations from the Section 75 categories and we would recommend that this

Consultation exercise at least includes a view from service users.

**16 To what extent is the guidance likely to impact on good relations between people of different religious belief, political opinion or racial group?**

**Answer below :**

Depends how far their views have been included in the construction of this guidance -which is not clear.

**17 Is the guidance likely to impact on good relations between people of different religious belief, political opinion or racial group?**

No

**If yes, please explain :**

Again it is unclear whether or not a multi-cultural perspective has been included at any stage in the production of this guidance.

**18 In relation to the Rural Impact Assessment Screening, are there any issues which you believe need to be addressed which haven't been, or any comment you wish to make on what is contained in the current screening document?**

**Answer below:**

**19 Do you have any additional data relevant to the rural impact assessment?**

No

**If yes, please comment below :**