



SOUTHERN HEALTH & SOCIAL CARE TRUST

Confidentiality and Information Sharing with Service User and Carers – Good Practice Guide

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Division	Mental Health & Disability
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INTRODUCTION / PURPOSE OF GUIDANCE

1.1 Background

Southern Health and Social Care Trust Mental Health Services is committed to working in partnership with people who experience mental health problems and with their friends, Relatives and Carers (hereafter referred to as Carers). It recognises that providing effective treatment relies on a three way partnership between people who experience mental health problems, their Carers and Professionals. We believe that it is part of the role of Professionals to promote clear communication between Service Users and Carers, working together towards recovery.

It is important to acknowledge that Carers are generally doing the best they can in difficult circumstances. They may be experiencing considerable stress, and therefore be less able than usual to communicate carefully and clearly; staff need to take care therefore to make sure they are understood. Many Carers have little or no prior experience of mental health services and may be uncertain as to how to respond to their relative's symptoms. Working in partnership is the means to overcome such uncertainty.

1.2 Purpose

The subject of confidentiality and sharing of information is a significant concern for Service Users, Carers and staff. Fear about breaching Service User confidentiality has frequently created a barrier to effective involvement of Carers in mental health care (DOH – Rethink 2006). The purpose of this document is to provide guidelines which will clarify and support best practice.

1.3 Objectives

To provide staff with a standardised framework of best practice to implement when decisions to share information need to be taken.

To comply with all the recommendations from the following: -

- The Report of the Inquiry Panel (McCleery) to the Eastern Health and Social Services Board 2006.
- The Report of the Inquiry Panel (McCartan) to the Eastern Health and Social Services Board 2007.
- The Report of the Inquiry Panel (O'Neill) to the Western and Eastern Health and Social Services Boards 2007.

To be read in conjunction with: -

- The Mental Health (Northern Ireland) Order 1986
- Code of Practice on Protecting the Confidentiality of Service User Information (DHSSPSNI, 2012)
- SHSCT Guidance on the Data Protection Act 1998 and Protection of Personal information

2.0 SCOPE OF THE GUIDANCE

This Guidance applies to all staff disciplines, Service Users and Carers within Mental Health Services. It excludes information which falls within the legal framework of statutory requirements to disclose information.

3.0 ROLES/RESPONSIBILITIES

All staff working within mental health services have a responsible role to play in achieving the above Guidance objectives.

Managers must ensure that this Guidance is disseminated to all staff within their service area and ensure compliance with same.

Ward Managers/Team Leaders/Clinical Leads must ensure that: -

- Staff are aware of the guidance;
- Staff are adhering to the guidance.

Staff should familiarise themselves with this guidance and adhere to same.

4.0 KEY GUIDANCE PRINCIPLES

4.1 There are a number of benefits from sharing information between Service Users, Carers and staff: -

- Agreement at an early date between Service Users, Carers and staff in relation to information sharing can prevent problems from occurring later on.
- Carers are most likely to know the person when well and recognise subtle changes in their mental health at an early stage. The information they provide can often prove crucial in planning care.
- Information for Carers about symptoms, risk, diagnosis and treatment can offer reassurance and enable them to provide support most effectively.
- Paying attention to the needs of all the Service User's family/Carer and friends may help preserve relationships during periods of difficulty.
- It can be helpful to see a Service Users' problems in the light of their social context. Involving Carers in treatment can often have a beneficial effect on clinical and social care outcomes, and promote recovery.

4.2 Consent to Share Information

It is vital that staff discuss fully with Service Users the benefit for Carers to receive information so that they can continue to support them. It is best for staff to ask Service Users their views on sharing information at the earliest opportunity.

Staff should do this in a way that promotes the value of the three-way partnership, making clear the likelihood of improved outcomes by including Carers in both care planning and its delivery. This should normally be as part of the initial assessment or admission process. A clear record of this discussion and the decision made by the Service User should be documented in the Service User's notes.

4.3 When Consent is Withheld

Confidential information about a Service User should only be shared if consent to do so is first obtained from the Service User.

However if the Service User declines his/her consent, the confidential information can only be disclosed in very limited circumstances, for example, when interest in maintaining confidentiality is outweighed by the risk to Service User's health, or due to statutory requirements. The decision to break confidentiality must only be made by those staff authorised to make such a decision and in line with the Code of Practice on Protecting the Confidentiality of Service User Information (DHSSPSNI, 2012) which states "Unless there is an overriding public interest justification, information should not be disclosed on a "best interest" basis where an adult with capacity refuses to consent to disclosure" and SHSCT Guidance on the Data Protection Act 1998 and Protection of Personal information. A clear record of this discussion and the decision made by the Service User should be documented in their notes. The decision taken by staff to break the Service User's confidentiality should also be clearly recorded in their notes (including the reason for doing so). This information should be shared with the Service User except where to do so would increase risk. In the event of staff taking the decision to break the Service User's confidentiality, consideration should also be given to the need for contacting appropriate authorities i.e. in the event of a child protection issue Gateway Services should be informed. Please follow Appendix 1 where a Service User withholds their consent.

Even when the Service User continues to decline consent, Carers must be given sufficient knowledge to enable them to provide effective care. They should also be given the opportunity to obtain information about the Service User and to discuss any difficulties they are experiencing in their caring role and advice given to help to try to resolve these. The provision of general information about mental illness, emotional and practical support for Carers does not breach confidentiality. The decision on general/personal information will be a clinical judgement in each individual case made by the multidisciplinary team. This decision should be clearly documented in the Service User's notes.

Staff should review the Service User's decision around information sharing on a regular basis as this can change over time. Again a clear record of this discussion and the decision should be made in the Service User's notes.

4.4 Information from Carers

It is important that staff listen to Carers to assist them in the completion of the Service User's Recovery plan. Carers will want to provide staff with personal details about the Service User to inform their Recovery plan. This might include simple facts about dietary preferences and/or known allergies or concerns about potential risks that require further investigation. Staff should always take the time to ensure that Carers feel their contributions to the Recovery plan are valued. Carers should also have the right to expect that information that they provide will not be shared with other people without their consent. Appendix 2 provides a guide to assist staff when a Carer exercises their right to withhold consent to sharing information with Service User.

Staff will need to explain the exceptions for when a breach of confidentiality may apply to Carers just as they do to the Service User. The decision on what information can be shared will be made by the Multidisciplinary Team on an individual basis. When dealing with confidential information provided by Carers the same principle of confidentiality still applies. When receiving information from a Carer, staff must establish the Carer's expectation as to who the information can be shared with.

A clear record of Carer's consent to share information and the decision taken to uphold this consent or otherwise (including the reason for doing so) should be clearly documented in the Service User's notes.

5.0 IMPLEMENTATION OF GUIDANCE

5.1 Dissemination

This Guidance will be disseminated to all staff within Mental Health Services.

5.2 Resources

No additional resources are required.

5.3 Exceptions

The scope of this Guidance applies to all staff disciplines, Carers and Service Users within Mental Health Services in the Southern Trust.

6.0 MONITORING

Adherence to this guidance will be monitored during staff supervision and through the SAI Review process and audit.

7.0 EVIDENCE BASE/REFERENCES

- The Report of the Inquiry Panel (McCleery) to the Eastern Health and Social Services Board 2006.
- The Report of the Inquiry Panel (McCartan) to the Eastern Health and Social Services Board 2007.
- The Report of the Inquiry Panel (O'Neill) to the Western and Eastern Health and Social Services Boards 2007
- Promoting Quality Care – Good Guidance on the Assessment and Management of Risk, DHSSPSNI, May 2010
- Southern Health and Social Care Trust Adult Protection Guidance and Procedures
- Southern Health and Social Care Trust Child Protection Guidance and Procedures
- Southern Health and Social Care Trust Guidance on the Data Protection Act 1998 and the Protection of Personal Information
- The Mental Health (Northern Ireland) Order 1986.
- The Human Rights Act 1998.
- The Northern Ireland Act 1998 (Section 75 Equality Considerations)
- Children (NI) Order 1995-The Regional Child Protection Guidance and Procedures (ACPC 2005)
- The Data Protection Act 1998
- Avon and Wiltshire, MH Partnership NHS Trust Good Practice Guide: Confidentiality and Information Sharing with Friends, Relatives and Carers, 2010
- Devon Partnership, NHS Trust Confidentiality and Information Sharing with Friends, Relatives and Carers. Guidelines to clarify and support best practice
- Machin 2004
- DOH (2006) Bringing Paper – Sharing MH Information Sharing with Friends, Relatives and Carers 2010
- DHSSPSNI – Service Framework for Mental Health and Wellbeing
- DHSSPS (2007) Caring for Carers. Recognising, valuing and supporting the caring role
- The Royal College of Psychiatrists (2004) – Carers and confidentiality in mental health – issues involved in information sharing
- Social Care institute of Excellence (SCIE) Guide 30 – Think Child, Think Parent, Think Family – a guide to parental mental health and child welfare, July 2009
- DHSSPS (2008) – Improving the Service User and Client Experience
- Code of Practice on Protecting the Confidentiality of Service User Information (DHSSPSNI, 2012)

8.0 CONSULTATION PROCESS

This Guidance has been developed following consultation with: -
Southern Trust Mental Health Services
CAUSE
Mental Health Forum

9.0 APPENDICES/ATTACHMENTS

Appendix 1 - Decision to share information without consent from Service User
Appendix 2 - Decision to share information without consent from Carer

10.0 EQUALITY STATEMENT

In line with duties under the equality legislation (Section 75 of the Northern Ireland Act 1998), Targeting Social Need Initiative, Disability discrimination and the Human Rights Act 1998, an initial screening exercise to ascertain if this Guidance should be subject to a full impact assessment has been carried out.
The outcome of the Equality screening for this Guidance is:

Major impact

Minor impact

No impact

Service User declines consent to share information

Discuss with Service User what information the Carer may need to know where they have substantial involvement in the recovery plan. Explore the issues of consent with the Service User and identify areas of information they feel comfortable with.

Service User gives consent to share information

Service User declines consent to share information

Information shared with Carer

Assess risk to Service User, Carer or others of not sharing information

Decision taken not to share information

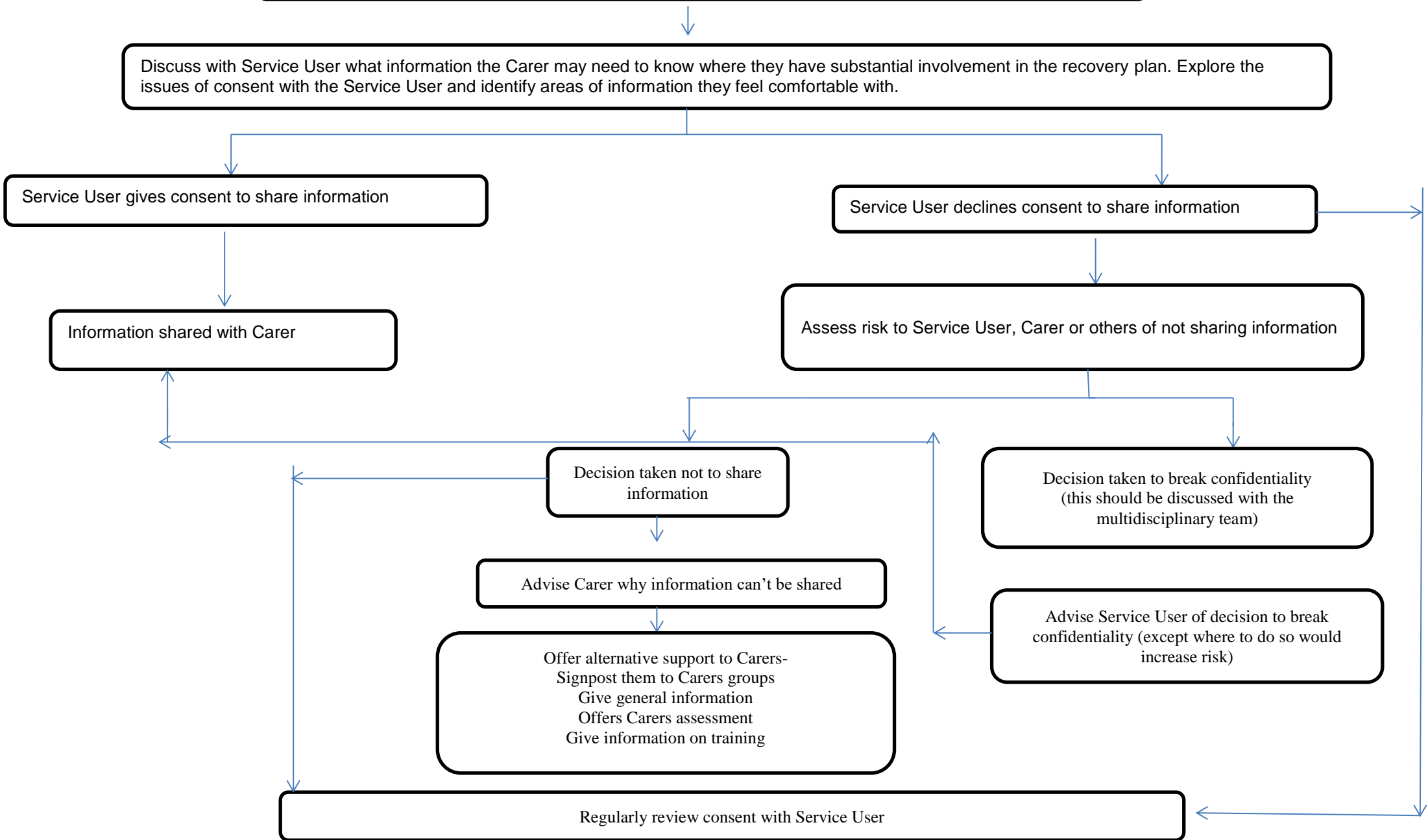
Decision taken to break confidentiality (this should be discussed with the multidisciplinary team)

Advise Carer why information can't be shared

Advise Service User of decision to break confidentiality (except where to do so would increase risk)

Offer alternative support to Carers-
Signpost them to Carers groups
Give general information
Offers Carers assessment
Give information on training

Regularly review consent with Service User



Appendix2

