

# **Scottish Accord on the Sharing of Personal Information**

## **Information Sharing Protocol for**

**Orkney Health and Care, NHS Orkney, Orkney Islands  
Council and its voluntary sector partners**

**Version: 0.8**

## Contents

<b>Part A – Introduction to this ISP</b>	<b>3</b>
1 <i>Scope and purpose of this ISP</i>	3
2 <i>High level functions of this ISP</i>	3
3 <i>Persons included in this ISP</i>	3
4 <i>Benefits</i>	4
5 <i>Details of personal information being shared</i>	4
6 <i>Key identifying information</i>	4
7 <i>The information sharing partner organisations</i>	5
<b>Part B – Justification for sharing personal information</b>	<b>6</b>
8 <i>Legislative / statutory powers</i>	6
9 <i>Consent</i>	6
<b>Part C – Operational procedures for this ISP</b>	<b>7</b>
10 <i>Summary</i>	7
11 <i>Fair processing information</i>	7
12 <i>Obtaining consent</i>	7
13 <i>Refused and withdrawn consent</i>	8
14 <i>Recording consent</i>	8
15 <i>Sharing information without consent</i>	8
16 <i>Actions to be taken where a Service User lacks capacity</i>	9
17 <i>Temporary impairment of capacity</i>	9
18 <i>Information collection</i>	9
19 <i>Frequency of information sharing</i>	9
20 <i>Retention Schedules</i>	10
21 <i>Subject Access Requests</i>	10
22 <i>Information Security</i>	10
23 <i>Complaints</i>	10
24 <i>Review of this ISP</i>	10
<b>Annex A – Information which can be shared under this ISP</b>	<b>11</b>
25 <i>Details of information to be shared when needed</i>	11
<b>Annex B – Template text for Privacy Statement</b>	<b>13</b>

# Part A – Introduction to this ISP

## **1 Scope and purpose of this ISP**

- 1.1 This Information Sharing Protocol (ISP) is supplementary to the Scottish Accord on the Sharing of Personal Information (SASPI), and has been agreed between the participating partner organisations. Partners have given consideration to its contents when drawing up this document.
- 1.2 This ISP has been prepared to support the regular sharing of personal information about persons who may need the services provided by the partner organisations.
- 1.3 It supports the information sharing partner organisations involved and the persons it impacts upon. It details the specific purposes for sharing and the personal information being shared, the required operational procedures, consent processes, and legal justification.
- 1.4 The Aims of this ISP are:
  - To enable the sharing of clinical, social care and voluntary sector information to improve care of persons for whom care are provided by the partner organisations.
  - To ensure that information is shared appropriately and effectively.
  - To ensure that partner organisations can have confidence that information exchange is kept to a “need to know” basis.
- 1.5 This Information Sharing Protocol covers the exchange of information between Orkney Health and Care, which is Orkney’s Health and Social Care Partnership, established in line with the Public Bodies, (Joint Working), (Scotland) Act 2014, Orkney Islands Council, NHS Orkney and the partner voluntary sector organisations listed in section 7, to meet the aims described above in paragraph 1.4.
- 1.6 This information may also be shared to support the effective administration, audit, monitoring, inspection of services and reporting requirements. Partners may only use the information disclosed to them under this ISP for the specific purpose(s) set out in this document.

## **2 High level functions of this ISP**

- 2.1 The functions which this information sharing protocol community are seeking to support involve:
  - Supporting the clinical care and welfare of persons requiring the provision of the partner organisation’s services.
  - Public protection matters.
  - Mitigation and preventative interventions with persons who may be at risk of harm.
- 2.2 Personal information shared to support functions other than those detailed above are not supported by this ISP.

## **3 Persons included in this ISP**

- 3.1 The persons which this ISP relates to are:

- Persons being cared for by any of the partner organisations, where the flow of information will improve the quality of the care provided by any of the partners.
- Persons who may be at risk and for whom Orkney Islands Council, Orkney Health and Care or NHS Orkney have statutory duties.
- Persons receiving or wishing to receive support from Orkney Islands Council or NHS Orkney.
- Persons supported by voluntary /third sector organisations contracted by Orkney Health and Care.

## **4 Benefits**

- 4.1 Benefits to persons include a more effective response to their situation because the partner organisations will be better informed about their needs and circumstances and so able to support them more effectively.

## **5 Details of personal information being shared**

- 5.1 Personal information shared for the purpose of this ISP includes a range of information regarding the person's clinical diagnosis and treatments, circumstances and needs.

- 5.2 The information shared might therefore include:

- Addresses and contact details.
- Information about diagnosis, attendances, treatments, care, support or intervention needs – both medical and social.
- Information about informal and formal support networks.
- Information about capacity to make decisions and whether there are proxy decision makers in place.

Full details of the information which is covered by the ISP is included in [Annex A](#).

- 5.3 The information that is shared will be used to allow an effective assessment of circumstances, abilities, capacity, strengths and risks and to allow an accurate prediction of what is required to assist, support or effectively intervene with a person or group who are at risk, or require a service.
- 5.4 Only the **minimum necessary** personal information consistent with the purposes set out in this document must be shared.

## **6 Key identifying information**

- 6.1 When sharing information, the following identifiers will be used where available, to ensure that all partner organisations are referring to the same person:
- Name
  - Date of birth
  - Address
  - OHAC Paris system number
  - NHS CHI number

## **7 The information sharing partner organisations**

- 7.1 This ISP covers the exchange of information between staff of the following organisations that are engaged in delivering the service outlined in this document:

<b>Information Sharing Partner Organisations</b>	<b>Responsible Manager</b>
NHS Orkney	 Cathie Cowan: 04.03.2016
Orkney islands Council	Alistair Buchan
Independent Sector Organisations (to be completed)	
GP Practices (to be completed)	

- 7.2 The responsible managers detailed above have overall responsibility for this ISP within their own organisations, and must therefore ensure the ISP is disseminated, understood and acted upon by relevant staff.
- 7.3 Staff of these partner organisations who work directly with persons in order to carry out the functions described in this ISP, are bound by this document, the policies and procedures of their own organisations and by their professional regulating bodies.
- 7.4 The term 'staff' encompasses paid workers, volunteers, students and other temporary workers approved by the employing / hosting organisation, whose duties include those relating to the functions outlined in this ISP.
- 7.5 Partner organisations will ensure that all current and newly-appointed staff receive appropriate training in the application of this ISP and the requirements of the SASPI framework.

## Part B – Justification for sharing personal information

**Please note: Staff should not hesitate to share personal information in order to improve care, prevent abuse or serious harm, in an emergency or in life-or-death situations. If there are concerns relating to child or adult protection issues, the relevant organisational procedures must be followed.**

### **8** *Legislative / statutory powers*

- 8.1 Disclosure of information will be conducted within the legal framework of the Data Protection Act 1998 (DPA), the Human Rights Act 1998 and in compliance with the common law duty of confidence.
- 8.2 Local Authority duty to enquire and to investigate under the Adult Support and Protection (Scotland) Act 2007; Mental Health Care and Treatment (Scotland) Act 2003, Children's Hearing (Scotland) Act 2011, Adults with Incapacity (Scotland) Act 2000, Social Work (Scotland) Act 1968 and the Children and Young People (Scotland) Act 2014.

### **9** *Consent*

- 9.1 Consent is normally required to share information between different partner organisations. To provide valid informed consent the person or their lawful representatives, must be provided with appropriate information to enable them to make an informed decision. Staff must follow the guidance on consent produced by their own organisations and Professional Regulators.
- 9.2 Implied consent is given when a person takes some action, including making a judgement, in the knowledge that in doing so he or she has incidentally agreed to disclosure of information.
- 9.3 Explicit consent is given by a person agreeing actively, either verbally or in writing, to a particular use or disclosure of information. It can be expressed either verbally or in writing, although written consent is preferable since that reduces the scope for subsequent dispute.
- 9.4 Consent must not be secured through coercion or inferred from a lack of response to a request for explicit consent. The Practitioner must be satisfied that the person has understood the information sharing arrangements and the consequences of providing or withholding consent.
- 9.5 Consent should not be regarded as a permanent state. Opportunities to review the person's continuing consent to information sharing should arise during the course of the service provision. The Practitioners should exercise professional judgement in determining whether it would be appropriate to re-visit a person's continued consent at any given juncture. Ideally it should take place in the context of a review or re-assessment.

## Part C – Operational procedures for this ISP

### 10 Summary

- 10.1 Only the minimum necessary personal information will be shared on a **need-to-know** basis and only when it supports the delivery of the purposes and functions set out in this ISP.
- 10.2 Personal information will only be collected using the approved collection methods, ensuring the required information is complete and up-to-date.
- 10.3 All reasonable steps must be taken to ensure that anyone who has received information is notified of any relevant changes and if any inaccuracies are found the necessary amendments will be made.
- 10.4 Decisions about persons should never be made by referring to inaccurate, incomplete or out-of-date information.
- 10.5 Information provided by partner organisations will not be released to any third party without the permission of the owning partner organisation.
- 10.6 Staff must also follow the procedures and guidance set by their own organisations and Professional Regulatory Bodies relating to the handling of personal information.

**Please note: Staff should not hesitate to share personal information in order to improve care, prevent abuse or serious harm, in an emergency or in life-or-death situations. If there are concerns relating to child or adult protection issues, the relevant organisational procedures must be followed.**

### 11 Fair processing information

- 11.1 It is necessary to communicate with the person or their lawful representatives about the need for information sharing at the earliest appropriate opportunity, preferably at first contact.
- 11.2 Being clear and open with the person about how their personal information will be used, will allow them to make an informed decision regarding consent for the sharing of their information.
- 11.3 Partner organisations will clearly inform the person about what personal information is to be shared, who the information will be shared between, why it needs to be shared and for what purposes it will be used for.
- 11.4 Agreed methods of providing this information are the privacy statement contained in leaflets and initial letters sent by the partner organisations to patients and service users. A standard text agreed by the partner organisations is attached as Appendix B.

### 12 Obtaining consent

- 12.1 The approach to obtaining consent should be transparent and respect the person.
- 12.2 For the purposes of this ISP, where needed, implied consent will be required from persons.
- 12.3 Partner organisations should be prepared to be open with their patients and service users about the role that their consent plays in the information sharing process and

indeed be clear about the type of circumstances in which they may share personal information without their knowledge or consent.

- 12.4 If there is a significant change in the use to which the information will be used compared to that which had previously been explained, or a change in the relationship between a partner organisation and the Service User, then consent will be sought again.
- 12.5 Consent obtained from Service User's for the purposes of this ISP will only be used to support the delivery of the purposes and functions set out in this document. Once the service provision of this specific ISP concludes, then consent obtained will also end. In the event of a similar or subsequent service provision undertaken in the future, new consent will be obtained.
- 12.6 Staff should use opportunities such as reviews or assessments to reaffirm the Service User's consent to the sharing of information outlined in this ISP.

### **13 Refused and withdrawn consent**

- 13.1 A person has the right to refuse their consent to have information about them shared. They also have the right to withdraw previously granted consent at any point, to the sharing of their information. Where consent is required, further personal information should not then be shared.
- 13.2 Where the person has refused or withdrawn consent, the implications of withholding consent will be clearly explained to them and this dialogue will be recorded in the file which each partner organisation will create for each service user, whether it is a paper file or an electronic file which might be kept in a case management system. If a person withdraws consent to share personal information it will also be explained that information already shared cannot be recalled. See section 15 below, for further information.

### **14 Recording consent**

- 14.1 Decisions regarding consent, of how and when it was obtained and whether it was provided in verbal or in written form, must be recorded in the person's file.
- 14.2 Details of refused or withdrawn consent should also be recorded together with any subsequent reviews of consent.

### **15 Sharing information without consent**

- 15.1 Staff are permitted to disclose personal information without consent in order to prevent loss of life or limb, abuse or serious harm to others. In the case of children aged less than 18 years, staff are permitted to disclose personal information without consent if there are wellbeing concerns about a child. The meaning of child wellbeing, for the purposes of this protocol, is defined in the Children and Young People (Scotland) Act. If there are concerns relating to child or adult protection issues, staff must follow the relevant local procedures of their partner organisation.
- 15.2 Personal information can be lawfully shared without consent in exceptional circumstances; where there is a legal requirement and where there is a substantial over-riding 'public interest'. For example there can be a public interest in disclosing information to protect individuals or society from risks of serious harm, such as serious communicable diseases or serious crime. NHS Orkney employees may seek



guidance from the Caldicott Guardian.. If a staff member in his/her professional opinion believes that there is a welfare concern then the relevant details of the individual and his/her circumstances should still be recorded. Only where necessary, would this include sharing proportionate information with appropriate other agencies. The individual's desire for privacy should be respected as much as possible, so only the necessary information should be shared with people who need to know.

- 15.3 If a claim of substantial public interest is made, justification will be clearly stated and any decision to share information with another party without the consent of the person will be fully documented on the person's file. This note will include details of the clinical or legal requirement used and details of the member of staff who authorised the sharing.
- 15.4 The person will usually be informed of this decision and of the information which has been shared; unless by doing so it would risk harm to others or the person, or hinder any investigation or legal proceedings.

## **16 Actions to be taken where a Service User lacks capacity**

- 16.1 Whenever dealing with issues of capacity to consent, local rules and procedures should be followed and these must be compatible with the Adults with Incapacity (Scotland) Act 2000 and its associated guidance.

## **17 Temporary impairment of capacity**

- 17.1 Where a person has a temporary loss of capacity, consent will be deferred, if appropriate, until such time as consent can be obtained. Consent to share information will be sought when capacity is regained.
- 17.2 Where it is not appropriate to defer the sharing of information, then it will not be appropriate to defer consent, as consent cannot be obtained retrospectively. Therefore, only where deemed necessary, may information be shared without consent, see section 15 above for further information

## **18 Information collection**

- 18.1 The approved collection tools for partner organisations to gather the personal information detailed in this ISP are:
  - Various electronic business systems
  - Paper forms as appropriate

## **19 Frequency of information sharing**

- 19.1 The personal information outlined within Section 5, Part D and Annex A, will only be shared on a need-to-know basis to support the functions of this ISP.
- 19.2 Partner organisations will share relevant personal information as detailed in Annex A.
- 19.3 Should changes be made to a record, all reasonable efforts must be taken to ensure that anyone who has received a copy of the record is also alerted to the change.

## **20 Retention Schedules**

- 20.1 Personal data will be held, processed and then destroyed securely in accordance with the retention schedule of each partner organisation.

## **21 Subject Access Requests**

- 21.1 Everyone had the right to ask to see what information an organisation holds on them. This protocol spells out how this will be given effect in a joint working environment. Each party is responsible for responding to Subject Access Requests where it is the Data Controller, regardless of where the personal data originated. Requests for personal information will be processed and responded to using the standard SAR procedure within each partner organisation.
- 21.2 Where the personal data includes data about the data subject provided by another organisation, the data should not be provided unless the organisation from where the information originated is consulted. Parties should develop procedures for consulting the originating organisation in such cases. This will ensure that information which would be subject to an exemption unique to the other party is not released.

## **22 Information Security**

- 22.1 Breaches of security, confidentiality and other violations of this ISP must be reported in line with each partner organisations' incident reporting procedures.
- 22.2 All data breaches involving personal information provided by partners under this ISP should be notified to the partner that originally provided the information.

## **23 Complaints**

- 23.1 Each partner organisation has a formal procedure by which persons can direct, their complaints regarding the application of this ISP.

## **24 Review of this ISP**

- 24.1 This ISP will be reviewed annually or sooner if appropriate.

# Annex A – Information which can be shared under this ISP

## 25 *Details of information to be shared when needed*

- The information shared may relate to the person who is or may be at risk or others who are significant to the lives and wellbeing of the person, for example, family members or members of the household
- Name
- Address
- Contact details
- Gender
- Date of birth
- CHI number
- PARIS reference and other case management reference numbers
- Employment details
- Concerns
- Non-accidental injuries
- Risk Assessment including risks relating to:
  - Self-harm
  - Substance misuse
  - Domestic abuse
  - Mental health issues
  - Learning difficulties or disabilities
  - Health screening and health conditions and risks
  - Social risks
  - Environmental risks
  - Investigations
  - Risk to others, including staff
- Registration details
- Medical diagnosis, treatment, attendances, examinations
- Legal measures
- Financial assessments
- Family circumstance, care, support both formal and informal
- Household circumstances
- Social and emotional developmental

- Immunisations
- Offence related referrals
- Education needs
- Language or communications needs and issues
- Vulnerability
- Cognitive issues
- Advocacy

## Annex B – Template text for Privacy Statement

The information we have about you will be held on computer or manual files for the purpose(s) of providing the service(s) that you have requested. Only those with a need to know will access this information.

We will share your personal information when:

- It is needed to share the information in order to provide the service(s) you have requested/require, or
- It will improve the care that you receive
- If we are legally required to do so, if requested to do so by a governmental entity or regulatory authority or if it believes in good faith that such action is necessary to: (a) conform to legal requirements or comply with legal process; (b) protect the rights or property of the organisation; (c) prevent a crime or protect national security; or (d) protect the personal safety of users or the public.

Apart from these circumstances, we will not normally share your personal information unless you give us permission to do so.

We also use the information you provide to help us understand what services are needed and what we can do to improve those services. We do share some information with the Scottish Government and other partners for the same reasons. If we share information for these reasons with anyone, other than the Scottish Government, we make sure that individuals cannot be identified from the information we provide. *[delete as appropriate]*

If you want to know more about how we use your information or wish to request access to it, please contact *[insert contact details]*.