

## Guidance on handling information for Police enquiries

### What is personal/sensitive Information?

Personal/sensitive information is any item or combination of data, set out in the table below:

Personal Information	Sensitive Information
• Forename, Surname or Initials	• Sexuality
• Date of Birth	• Ethnicity
• Gender	• Physical or mental health conditions
• Address and/or Postcode	• Religious or similar beliefs
• Occupation	• Political Opinion/Trade Union Membership
• Identity Number (e.g. NHS, NI Numbers)	• Offences committed or alleged offences/ Court proceedings

***Under the Data Protection Act 1998 and NHS Caldicott guidance you are under a duty to keep personal/sensitive information (on patients and staff) confidential and secure.***

### Can you disclose personal/sensitive information to the Police?

If you can gain the informed consent of the individual, then you can. If you cannot gain consent or gaining it might jeopardize the investigation (e.g. evidence is destroyed), then you need to consider if there is a duty or power under law to share information. If there is a legal duty then disclosure is mandatory and consent is not necessary. If there is a legal power, you can disclose relevant information but it is not mandatory, however do consider seeking consent or informing the individual.

You should inform any police officer requesting information that you may need to seek consent and do they still wish you to continue? Alternatively they may be able to satisfy you that consent would not be appropriate because of the nature of the investigation (via a section 29 exemption form – see overleaf).

The most likely legal basis for disclosure to the police are:

#### Legal Duty: (You MUST disclose, even without consent)

- **Prevention of Terrorism Act (1989) and Terrorism Act (2000)**  
If you have gained information (including personal information) about terrorist activity you MUST inform the police. It is a statutory duty to do so
- **The Road Traffic Act (1988)**  
You have a statutory duty to inform the Police, when asked, the name and address of drivers who are allegedly guilty of an offence; do not disclose clinical information.
- **Court Order**  
Where the courts have made an order, you must disclose the required information, unless the organisation decides to challenge the order at court.

#### Legal Power: (You MAY disclose, but must consider implications of gaining consent)

- **The Police and Criminal Evidence Act (1984)**  
You can pass on information to the Police, as the act creates a power to do so if you believe that someone may be seriously harmed or death may occur if the Police are not informed. Serious arrestable offences include murder, rape, kidnapping and causing death by dangerous driving.

- **The Crime & Disorder Act (1998)**

Information may be required on an individual if there is a need for **strategic cross-organisational planning** to detect, prevent or reduce crime and disorder that an individual may be involved in. A nominated officer for the organisation deals with requests such as these. There may also be requests for aggregated data for detection, prevention or reduction purposes. A nominated officer also handles these.

### **Children in Need - Legislation:**

Under section 47 of the Children Act (1989) a Local Authority must make enquiries (which might be through the Police) necessary to decide whether they should take any action to safeguard or promote the child's welfare. In such a situation, firstly confirm it is a section 47 enquiry and then release relevant information, unless 'to do so would be unreasonable in the circumstances of the case'. You do not have to gain consent of the parent or child or inform them, however you may choose to if appropriate.

If you suspect a child is being abused, but there is no request for information, you have a legal power to disclose information to Social Services (under 'vital interest' conditions of the Data Protection Act) and/or the Police (under the Police & Criminal Evidence Act). Consider whether gaining consent or informing the child and parents would be beneficial or detrimental to the situation. If detrimental then disclosure without consent is permitted

### **Where gaining consent may be prejudicial to an investigation:**

The Police may seek personal information under an exemption of the Data Protection Act 1998. A **Section 29(3) exemption** is used when making enquires which are concerned with:

- a) **the prevention and detection of crime or**
- b) **the apprehension or prosecution of offenders**

and the view of the Police is that seeking consent or even informing the individual(s) about the transfer of data will prejudice the enquiry as they may destroy evidence or abscond. A section 29 exemption allows information to be provided by organisations without gaining consent.

- The Police will need to produce a Section 29(3) form (example available on request) requesting the information, signed by a Police Inspector who has decided to serve the exemption.
- You do not have to supply information, and you may still decide to seek consent/inform, however the Police will have taken a considered judgement about the importance of the information.
- Do not feel pressurised to give information because the police have requested it. It is reasonable to ask why it is needed and what is required before making a decision.

### **Important notes & further advice:**

Always check the identity of anyone requesting information. Only give minimum information to satisfy the request. Seek advice from colleagues and line managers when making a decision about disclosure and record your reasoning and any decisions made. You may have to judge whether disclosing information will cause fewer problems than withholding it.

**If you require further advice, please contact: The Information Governance Manager on 01242 533530 email: [dee.rogers@glos.nhs.uk](mailto:dee.rogers@glos.nhs.uk) or the Caldicott Guardian within your organisation.**