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Sharing information with Social Services – supplementary guidance for decision makers

Introduction

- 1 The purpose of this guidance is to provide additional support for decision makers by giving a detailed explanation of the key factors they must consider when deciding if a concern should be shared with social services. It should be read in conjunction with guidance for staff on [sharing information with social services](#).
- 2 The guidance is not intended to be exhaustive as each potential disclosure will be unique and the decision maker must consider its individual circumstances before reaching a decision. It is intended to support a consistent approach by providing lawful and proportionate principles for decision makers to adopt when disclosing information to social services.

Key considerations as listed in decision template

- 3 A template has been developed to enable the decision maker to record their decision in a consistent way that shows they have taken all the relevant factors into account. This will help provide an effective audit trail if we are challenged on a decision to share information. The template is at annex A and identifies the following as key factors:

Identifying the individual at risk of harm and the safeguarding concern

- 4 The decision maker should confirm the identity of the individual at risk of harm and briefly summarise the concern that has been raised. Reference should also be made to the evidence we have received which gave rise to the safeguarding concern. The decision maker can do so in broad terms and does not need to give a detailed summary [this should have been completed by the referring Investigation Officer (IO) in the first part of the template.]

Threshold for sharing information

- 5 The second question the decision maker must address is whether the threshold is met for sharing information with social services. There are three criteria that should be satisfied and the decision maker should address each one in turn. If any of the

criteria are not met, they can proceed to record their decision without needing to complete the rest of the form. The threshold for sharing information with social services will only be met if all three criteria are satisfied.

Criteria one

■ *Do we have information that a child or vulnerable adult has been harmed or is at risk of future harm and no adequate action has been taken to address this risk?*

- A child is defined as anyone under the age of 18
- The definition of a vulnerable adult is less straightforward as there are no definitive criteria for adults that are entitled to a safeguarding response from local authorities. However, in the context of the Care Act 2014, specific adult safeguarding duties apply to *any* adult who:
 - has care and support needs and
 - is experiencing, or is at risk of, abuse or neglect AND
 - is unable to protect themselves because of their care and support needs

The Social Care Institute of Excellence website identifies the following examples of adults who meet the above criteria although this is not an exhaustive list:

- an older person
- a person with a physical disability, a learning difficulty or a sensory impairment
- someone with mental health needs, including dementia or a personality disorder
- a person with a long-term health condition
- someone who misuses substances or alcohol to the extent that it affects their ability to manage day-to-day living.
- someone who has suffered sexual exploitation
- someone who has experienced domestic abuse
- someone who has experienced modern slavery

Criteria two

■ *Do we have enough information to enable the decision maker to form a reasonable belief that there is a continuing risk of harm to a child or vulnerable adult?*

In order to be reasonable, this belief should arise from a tangible source of evidence such as a patient's medical records, signed witness statements or an audio or video recording. It should not be based on speculation or unsubstantiated opinion which is not supported by any evidence.

Although we do not need to carry out detailed investigations to verify a safeguarding concern, we should carry out simple enquiries if they are necessary to clarify matters. This could include contacting a complainant or other party to check an important point of

information. The member of staff who identified the concern and is dealing with the relevant investigation is responsible for discreetly carrying out any further enquiries without referring to the fact we are considering a disclosure to social services.

Criteria three

- Is the GMC the appropriate body to share the concerns with social services?

We should usually only share information if there isn't another appropriate individual or organisation better placed to do so. The decision maker should consider whether it is more appropriate for the concerns to be remitted back to another party to make a disclosure to social services. These parties may include the relevant safeguarding lead at an NHS Trust or Area team (if the concerns were identified by medical staff), the head teacher of the relevant school, college or nursery (if the concerns about a child were raised in an educational setting) or the leader of a voluntary or church group (if the concerns were identified in that setting). As outlined in the government guidance, [Working together to safeguard children](#) (March 2015), to which the GMC is not formally subject, all these parties have a statutory responsibility to report safeguarding concerns. Other organisations with this responsibility include the Prison Service, Police and British Transport Police.

If the threshold for sharing information is met and we have identified another appropriate organisation/individual to make the referral, we should do the following:

- Contact the third party organisation/individual by telephone to establish whether they are aware of the safeguarding concerns and to ask if they have already made a referral to social services. If this is the case, we do not need to take any further action other than noting the outcome with a file note. If they confirm a referral is immediately imminent, it would be appropriate to pause briefly and ask for confirmation of when the referral has been made. If this is not forthcoming in a timely way, we should proceed to make a referral.

In order to avoid the risk of disclosing confidential and sensitive information to the wrong person, sharing of information with NHS organisations should be done via the relevant Employer Liaison Adviser (ELA.) For other organisations, we should ask to speak to the safeguarding lead.

- If the third party organisation/individual was not aware of the concerns and have no plans to make a referral to social services, we should discuss with them who is best placed to share the information. If they wish to do so, we should ask them to confirm when the referral has been made and to update us on the outcome. In circumstances where the third party does not wish to make a referral or it would take them a long time to do so, we should proceed to make the disclosure ourselves provided that the threshold in the guidance is met i.e. we have a reasonable belief that an identifiable

child or vulnerable adult has been harmed or placed at risk of harm and there is a real possibility that the harm will occur or re-occur in the future. The length of time we will await confirmation from a third party that they have made a referral before we proceed to make our own referral will depend on the urgency of the concerns and whether the risk of harm is imminent.

- Conversations with third party organisations should be collaborative and constructive and should not involve pressure to make a referral.
- 6 If the above criteria are not met then the decision maker should proceed to record their decision that no disclosure should be made to social services. There is no need to complete the rest of the form.

Do we have a legal basis for disclosure under section 35B(2) of the Medical Act 1983?

- 7 If the threshold is met, the decision maker should go on to consider whether our discretionary power to share information under section 35B(2) of the Act is applicable. This is the relevant legal basis for disclosure and can only be used if the following criteria apply:

Criteria one

- *The information relates to an individual doctor's fitness to practise*

Where the information has arisen in the context of a fitness to practise case the application of S35B(2) may be clear but there may be circumstances where legal advice is necessary, such as where the information arises during a fitness to practise investigation but is unrelated to the matters under investigation. For example, medical records obtained for the purpose of a fitness to practise investigation reveal that a complainant told their GP they suffered regular verbal abuse and rough handling by their carer and no safeguarding concern has previously been raised. Although the information disclosed is not directly related to the allegations originally under investigation, an apparent failure to raise a safeguarding concern does raise a question about fitness to practise (although it will not be clear at that stage exactly what has happened) and therefore this information may legitimately be disclosed under section 35B(2) as relating to an individual doctor's fitness to practise.

As below, decision makers should seek legal advice if they are unsure whether there is a sufficient link to a doctor's fitness to practise to enable section 35B(2) to apply.

Criteria two

- *The decision maker considers it to be in the public interest to disclose the information*

There is not a set definition of the public interest. However, in this context, the relevant public interest is in protecting members of the public from harm. The Medical Act 1983 (as amended) makes it clear that public protection is the overarching objective of the GMC and that this includes protecting, promoting and maintaining the health, safety and wellbeing of the public. There is an important distinction however between what is in the public interest, and what is interesting to the public or subject to public clamour, especially in the media.

The public interest test will be satisfied in circumstances where we have formed a reasonable belief that there is an unaddressed risk of harm to a child or vulnerable adult. If the threshold for sharing information is met, the decision maker can safely conclude it will be in the public interest to make a disclosure to social services.

Legal advice on section 35B(2)

The decision maker should bear in mind that it may be necessary to obtain legal advice if there is a genuine concern over whether we can legitimately rely on section 35B(2) to share information. If the decision maker considers that it is unlikely that we can use our section 35B(2) powers but the threshold is engaged, legal advice should be sought as to whether there may be an alternative basis on which we could make a limited disclosure to social services and the decision maker should proceed to complete the rest of the form. An example of a scenario where it would be appropriate to seek legal advice is where information given by a witness as part of fitness to practise proceedings suggests they are at risk of harm e.g. a witness discloses to a case officer that their abusive partner does not want them to give evidence at the hearing and suggests they are at risk.

Has the person at risk or, in the case of a child at risk, those with parental responsibility for that child raised any objections to the information being shared?

- 8** We will normally inform all parties that we intend to share information about them with social services and provide them with an opportunity to raise objections. Exceptions will apply in the following circumstances:
- Our concerns are about a child and we have a reasonable belief that they could be at risk of further harm if we disclose our intention to share our concerns to those who hold parental responsibility for them
 - Our concerns are about an adult who does not have capacity to understand the purpose of our disclosure and raise objections to it. This will be rare and we should assume an adult has capacity unless there is clear evidence available to suggest otherwise. The decision maker does not need to make an assessment of an adult's capacity.
 - The risk of harm is so serious that we cannot delay sharing the concerns with social services while we inform the parties named in the disclosure.

The above is not an exhaustive list and there may be other circumstances where it is inappropriate to inform the subject of the disclosure of our intention to share information about them with social services.

- 9 We will not contact the parties named in the disclosure unless an initial view has been given by either the Assistant Director for Policy, Business Transformation and Safeguarding or the Assistant Director for Investigation and Case Review that the threshold for sharing information with social services has been met. This view will usually be given by e-mail. In some cases which are particularly complex or the decision is finely balanced, it may also be necessary to obtain legal advice on whether a disclosure is appropriate before notifying the relevant parties that we are minded to share information about them with social services.
- 10 If we have contacted the relevant parties, the decision maker will need to consider any objections that the individual at risk (or those who have parental responsibility for a child at risk) have raised to information about them (or their child) being disclosed to social services. This is a relevant factor in the final decision and the objections need to be weighed against the other factors in favour of disclosure. Our correspondence to the parties named in the disclosure will make it clear that we can proceed to share information without their consent if we consider it necessary to do so in the wider public interest.

Objections raised by an adult with capacity where the risk only applies to that individual

- 11 If an adult with capacity objects to concerns about them being disclosed to social services, this should be given significant weight by the decision maker and is likely to override any other factors in favour of disclosure. If the risk we have identified only relates to that individual, we should abide by their wishes. It is important however that we [signpost](#) the adult at risk to organisations which can provide them with support.

Objections raised by an adult with capacity where the risk extends to others

- 12 In circumstances where the identified risk of harm extends beyond the adult objecting to the disclosure, the decision maker must weigh the objections carefully against the likelihood that other individuals may suffer harm if no disclosure is made to social services. If we have sufficient information to do so, the decision maker should also consider:
 - the likely severity of the harm and;
 - the ability of the other individuals at risk of harm to protect themselves e.g are they children or vulnerable due to a health condition or other personal circumstances

The decision maker must show that they have balanced the objections against the risk to others and the wider public interest in making their final decision.

Objections raised by those with parental responsibility for a child at risk of harm

- 13** Although the decision maker should consider carefully any objections raised by anyone with parental responsibility for a child who we consider at risk of future harm, their overriding concern should be for the welfare of the child. If the threshold is met for sharing information with social services, we should proceed to do so at the earliest opportunity. The unique vulnerability of children who are unable to protect themselves means it will generally be in the public interest to disclose concerns to social services to enable them to assess the risk and take any necessary action to address it.

Compliance with data protection legislation

- 14** It is important to ensure that any disclosure is lawful and proportionate. We should only disclose the information that is needed by social services to undertake an assessment of the risk of harm to a child or vulnerable adult. We will consider any requests by social services for additional information on an individual basis. The decision maker will need to consider whether the proposed disclosure will comply with the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR.) The 'data subject' will be the person whose information we are sharing with social services.
- 15** The most relevant principle of the GDPR is the first one that personal data shall be processed fairly,lawfully and transparently. The decision maker must take the following into account when considering if the proposed disclosure is in accordance with data protection legislation:

Disclosure to social services may involve more than one individual's personal data (for example, a child and a parent or a doctor and a patient)

- The provisions of **data protection legislation** must be satisfied in respect of the information disclosed for each individual

Information disclosed to social services is likely to fall within the definition of **special category** personal data under the **GDPR**. **Special category** personal data includes information as to the physical or mental health of a data subject and details of any abuse the data subject has suffered.

- Disclosure of **special category** personal data requires additional conditions to be satisfied under **Article 9 of the GDPR**

- 16** In practical terms, the decision maker need only focus on the first data protection principle when considering the requirements of data protection legislation. The full wording is:

Personal data shall be:

(a) processed lawfully, fairly and in a transparent manner in relation to the data subject

In considering whether the proposed disclosure is fair, the decision maker should consider:

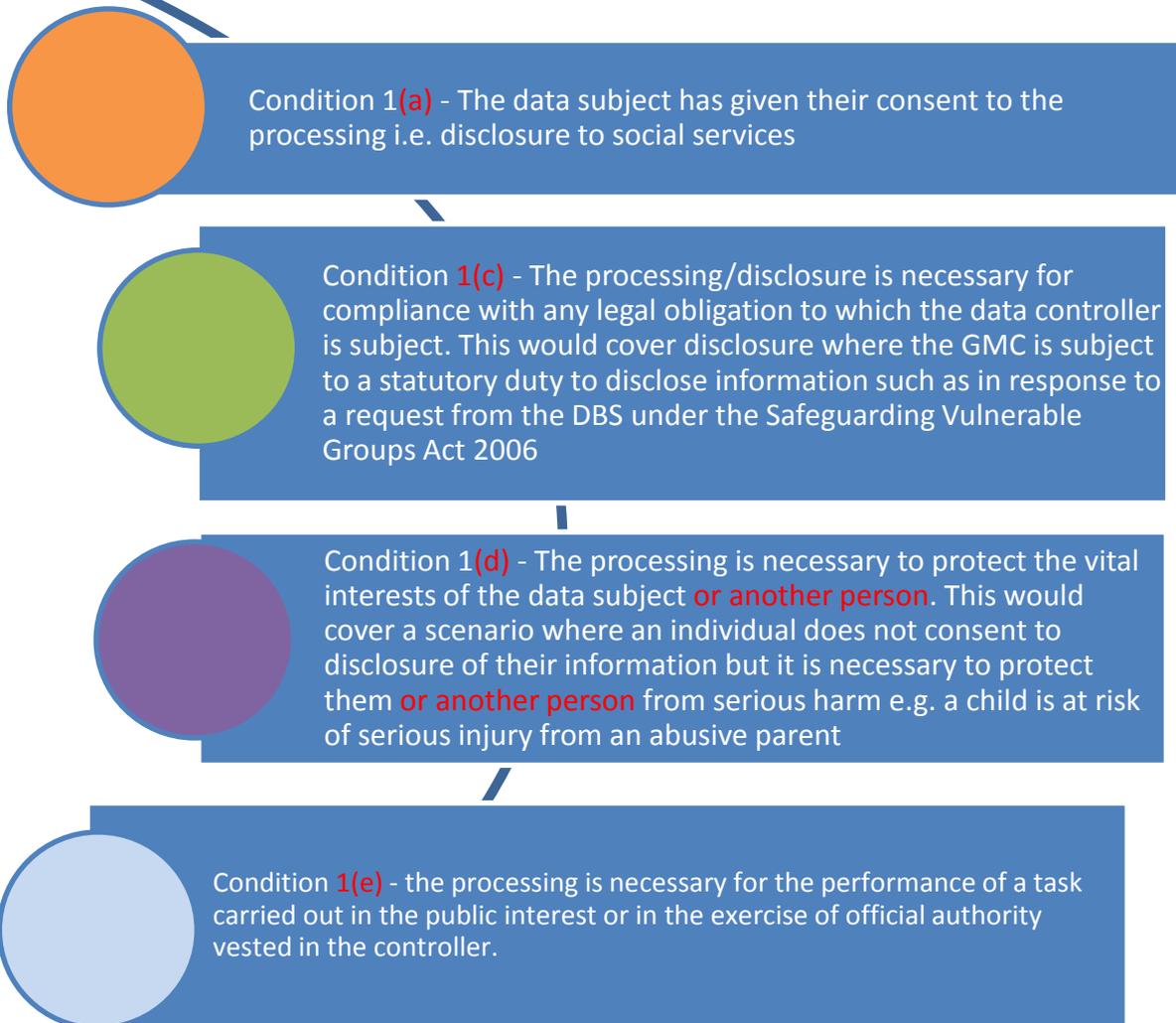
- How the information to be shared was obtained and whether the person it concerns was misled as to the purpose for which it was to be processed.
- Whether the data subject has been given sufficient information about the disclosure including what information will be disclosed, who it will be disclosed to and the purpose of the disclosure.

This will be addressed by the use of a standard letter informing the data subject(s) of our intention to share their information which will include the above information.

- The nature of the information to be disclosed to social services and the possible implications for the data subject.

Article 6 conditions

17 In order for the disclosure to comply with data protection legislation, it must satisfy at least one of the conditions listed in Article 6 of the GDPR. The most relevant conditions are listed in the diagram below and the decision maker should choose the most applicable one(s). It is likely that conditions 1(a) and 1(e) will be most

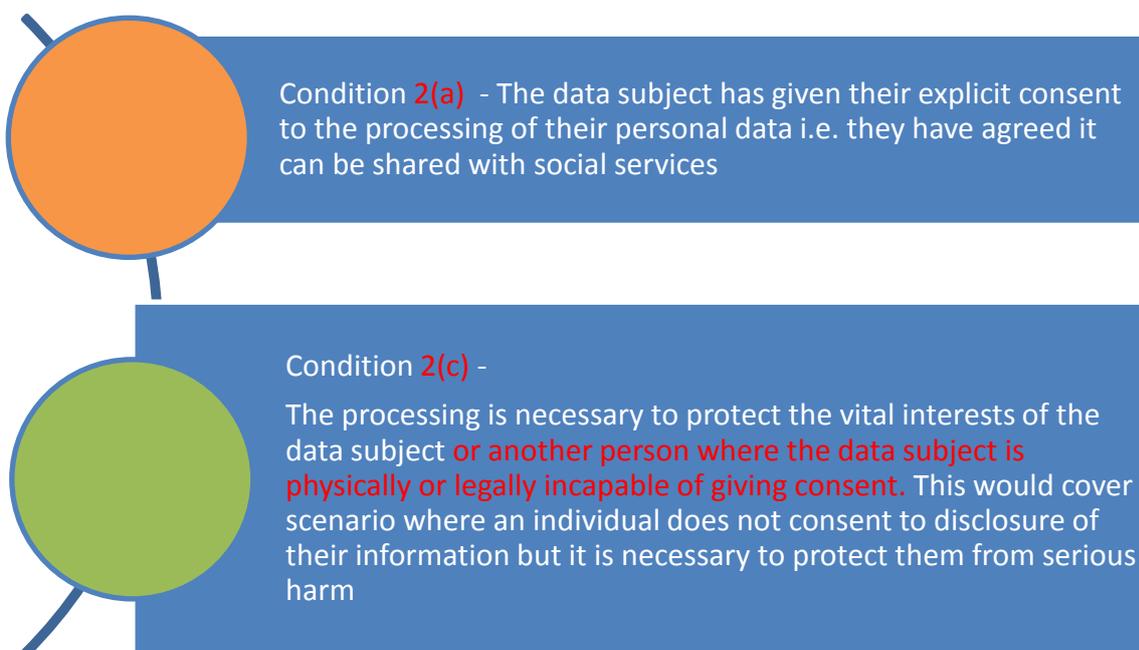


commonly used.

Article 9 conditions

- 18** If the information we intend sharing with social services is special category personal data (which is highly likely), then one of the conditions in Article 9 of the GDPR must also be satisfied. This is in addition to an Article 6 condition as detailed above. The relevant conditions in Article 9 are:

Condition 2(g) - the processing is necessary for reasons of substantial public interest



- 19** Once the decision maker is content that the first data protection principle is met and the proposed disclosure is lawful and fair, they can move on to consider article 8 of the European Convention on Human Rights (ECHR).

Article 8 of the ECHR

- 20** The decision maker must also consider article 8 of the ECHR when reaching a decision on sharing information with social services. In this context, the purpose of article 8 is to protect individuals from unlawful interference in their right to a private and family life. Article 8 protects confidential information that forms part of a person's private life, including information about their health, sexual relationships and allegations of professional misconduct or criminal conduct.
- 21** Sharing information with social services will almost always involve interference with article 8 due to the private nature of the information being disclosed. We must therefore be clear that this interference is justified by referring to one or more of the legitimate aims of disclosure which are specified in article 8(2) of the ECHR. The relevant ones in relation to safeguarding are public safety, the prevention of disorder

or crime, the protection of health or morals or the protection of the rights and freedoms of others.

22 There are three criteria that must all be met to ensure the disclosure does not represent an unlawful interference with an individual's article 8 rights. These are:

Criteria 1 -
the disclosure
must be in
accordance
with
domestic law

- The disclosure should be consistent with our policy on sharing information with social services and the provisions of **data protection legislation** to mitigate against any arbitrary interference with article 8(1) rights
- The disclosure must be justified in accordance with a legal power e.g Section 35B(2) and not undertaken on the basis of a whim or with malicious intent

Criteria two -
the proposed
disclosure
must achieve
one of the
legitimate
aims identified
in article 8(2).

- These are public safety, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. The decision maker should specify which ones apply on the template.

Criteria three -
as well as
meeting a
legitimate aim
as above, the
disclosure must
be
proportionate to
that aim

- If the above two criteria are met, the decision maker should consider the facts of each case and conduct a balancing exercise between the interests of the individual(s) named in the disclosure and the interests of the public. This involves weighing the pressing social need for children and vulnerable adults to be protected from the risk of harm against the individual's right to respect for their private life. Factors to be taken into account are the gravity of the concerns, the period that has elapsed since the events occurred, the relevance of the material to the safeguarding concerns, the impact on the individual(s) of disclosure and the risk that would be caused to third parties if the information is not disclosed.

An example of applying the three criteria when considering article 8 is if we were to disclose information about a doctor being a threat to their child, then this would be in accordance with law (section 35B(2)), it would be to achieve the legitimate aim of prevention of crime and to protect rights of others, and we demonstrate that our actions are necessary and proportionate by recording that we consider it necessary because we have valid concerns about a child's safety and do not consider that any other body has addressed these concerns, and that our disclosure is proportionate as we are only sharing the information which directly relates to those concerns (and no extraneous information).

Duty of confidence

23 The decision maker will also need to consider whether we intend disclosing any information to social services where a duty of confidence applies. This will most likely arise in the following situations:

- The information forms part of the medical records relating to an individual which are confidential.
- The information in question has been provided to the GMC by a third party in confidence and the nature of the information has the necessary quality of confidence.

24 The decision maker can agree the disclosure of inherently confidential information such as medical records (without consent) in the following circumstances:

- The benefits to an identifiable individual at risk or to society of the disclosure outweigh the public and the subject of the disclosure's interest in keeping the information confidential. The decision maker should weigh the harm that is likely to arise from non-disclosure of confidential information against the possible harm that may arise to the subject(s) of the disclosure from the release of that information.
- The patient is known not to have the capacity to consent to the disclosure of information where a duty of confidence applies [capacity should be assumed unless we have clear evidence that it is compromised]
- Failure to disclose the confidential information may expose others to a risk of death or serious harm which is so serious that it outweighs the patient's and the public's interest in maintaining confidentiality
- It is not practicable to seek the relevant individual's consent to the disclosure of information where a duty of confidence applies e.g. medical records

The factors to consider in relation to the duty of confidence are very similar to those in relation to data protection legislation/ECHR, so essentially if we are satisfied that disclosure can be justified under data protection

legislation and is necessary and proportionate, it will generally be acceptable to disclose the confidential information.

Advising the subject of the disclosure of our decision

- 25** We will inform the subject of the disclosure of our decision and confirm (if applicable) that the information has been shared with social services.

Obtaining legal advice

- 26** The decision maker does not need to routinely obtain legal advice on potential disclosures to social services. However it is open to the decision maker to do so if the issues are complex, for example there is doubt about the engagement of section 35B(2) powers, or they are uncertain about whether the disclosure would comply with the relevant legal obligations to which the GMC is subject.

Concerns raised by GMC associates

- 27** If a concern is identified by a GMC associate such as a medical expert or health examiner and we consider that the threshold is met and we have legal powers to do so, we will usually share it on their behalf with social services. This is because they may only have had limited involvement with or knowledge of the individual at risk. However, the decision maker should consider on a case by case basis whether it is more appropriate for the associate to raise the concern directly with social services in accordance with their duty as a medical practitioner. These circumstances will be rare but may arise where the information which it is proposed is shared does not relate to a doctor's fitness to practise.
- 28** If applicable, we should ask the associate to confirm that they have raised the concern with social services by providing us with the date of the referral and the name/position of the person to whom disclosure was made.

Non section 35B(2) disclosures

- 29** Being unable to use our discretionary power under section 35B(2) does not necessarily prevent us from sharing information with social services. If there is doubt over whether section 35B(2) is engaged, we should seek legal advice on the options available to share information within our wider legal framework.

Recording the decision

- 30** The decision maker should record clear reasons for their final decision which refer to all the factors listed above so that it is clear they have been taken into account.
- 31** If the decision is to share the information with social services, the decision maker should confirm the specific documents to be disclosed and to whom they relate. The decision maker should also specify whether any redaction of third party details is

required and confirm the social services organisation to which disclosure should be made.

- 32** The completed decision will be reviewed and signed off by a second decision maker before we proceed with making a disclosure to social services. This will be either the Assistant Director for Policy, Business Transformation and Safeguarding or the Assistant Director for Investigation and Case Review.
- 33** If, after seeking legal advice, it appears that section 35B(2) is not engaged and there is a question about whether there is an alternative legal basis for sharing information then the disclosure will also need to be authorised by the Director of Fitness to Practise.

Identifying the correct social services organisation

- 34** If a decision has been made to share information with social services, we will need to ensure any disclosure is undertaken in a secure manner given its likely sensitivity. Further information about identifying the correct social services organisation is at annex B.

Follow up enquiries

- 35** If further information is requested by social services following a decision to share a concern with them, this will need to be considered on a case by case basis. If it is requested using their statutory powers e.g under the Children Act 2004 or the Care Act 2014, then we will comply with the request. If there is any doubt about the validity of the request, advice can be sought from the Legal team.
- 36** If the request is not made under a specific authority, we will need to consider if it is in the public interest to disclose the information under section 35B(2). However, there will need to be a link to an individual doctor's fitness to practise and legal advice may be required on the applicability of our section 35B(2) powers.

Simultaneous disclosures to the police and social services

- 37** There will be occasions where the safeguarding concerns that we wish to share with social services also raise a question as to whether a criminal offence may have been committed. For example, if we identify information from a child's medical records suggesting they suffered a non-accidental injury or if we have information to suggest a child or vulnerable adult has suffered serious neglect.
- 38** Following feedback from the police and social services organisations, it was agreed that simultaneous disclosures should be made to both parties if safeguarding and criminal concerns arise. This is to avoid concerns about criminal conduct potentially slipping through the cracks if we only make a referral to social services and rely on

social services to share the information with the police in a timely manner. The reverse may also be true if we only share information with the police and assume that they will liaise with social services to address a risk of harm to a child or vulnerable adult.

39 The criminal conviction team are responsible for making disclosures using the guidance on [sharing information with the police](#). The following steps should be followed by the decision maker/Safeguarding Referral Team (SRT) if both safeguarding and criminal concerns arise:

- Check with the manager of the criminal conviction team whether they are already aware of the potential criminal conduct. If this is not the case, the SRT should complete the first half of the decision template summarising the information received and send it to the manager of the convictions team by e-mail who will open a service request upon receipt.
- Liaise with the criminal conviction team about the progress of any decision on whether information will be shared with the police
- Consider whether it is appropriate to inform the subject of the disclosure or those with parental responsibility for the child at risk of our intention to share information with social services as this may give rise to a risk to the vulnerable person or “tipping off” concerns. If a dual referral is likely to be made to the police and social services, we would not wish to jeopardise any potential criminal investigation by notifying possible suspects or witnesses of our concerns.
- Co-ordinate referrals with the criminal conviction team so that they are made within a week of each other.
- Where applicable, include a line in the letter to social services and to the police notifying them that we are also sharing the information with the other body. We will provide details of the police force or the social services department to which the disclosure has been made [a standard letter will be provided.]

Annex A – Decision making template

Sharing information with social services – template decision making document

Case/Enquiry Ref Number (if any):

Doctor's name (if applicable):

Decision required: (first part to be completed by Investigation Officer or Case Review Officer)

Background Information <i>(Please outline briefly the information that has given rise to concerns about a child or a vulnerable adult including details of where the information has come from and the relevant key documents on SIEBEL. You should specify the specific individual about whom concerns have been raised.</i>	KCDs
Other information <i>(If applicable, please explain any context relating to the case or otherwise which may give rise to additional concerns about the welfare of a child or vulnerable adult)</i>	
Sharing information with the person at risk <i>(From the information available, are there any reasons why the person at risk should not be informed of our concerns and intention to share them with social services e.g there is evidence they do not have capacity?)</i>	
Has legal advice already been obtained? If so, please summarise the relevant points and any	

recommendations made about whether the information should be shared with social services	

Decision : (for completion by Safeguarding Referral Manager if necessary continuing on supplementary sheets and countersigned by either Anna Rowland or Joanna Farrell)

<p>Please identify:</p> <p>(i) the person(s) that is at risk of harm</p> <p>(ii) the relevant safeguarding concern</p> <p>(iii) the evidence to support the safeguarding concern</p>	
<p>Is the threshold test for sharing information with social services met? Please provide reasons and reference all three criteria</p> <p>See paragraphs 5 to 6 of decision makers guidance. If the threshold is not met please proceed directly to complete the final decision box below</p>	
<p>Can the information be legitimately disclosed to social services under section 35B(2) of the Medical Act 1983?</p> <p>Please confirm:</p> <p>(i) Whether the information relates to an individual doctor's fitness to practise or it relates to a third party but a doctor was directly involved in the events raising the safeguarding concern and their involvement raises a fitness to practise issue*? AND</p> <p>(ii) Whether it is in the public</p>	

* Legal advice is likely to be required in this scenario to confirm whether section 35B(2) applies

<p>interest to disclose the information to social services?</p> <p>If there is doubt about whether section 35B(2) applies, please record this and continue to complete the decision form.</p> <p>If legal advice has been obtained, please briefly summarise the relevant points. The exact wording of the advice should not be reproduced as it is legally privileged.</p> <p>See paragraph 7 and 29 of the decision maker’s guidance for further information.</p>	
<p><i>Has the person at risk or, in the case of a child at risk, those with parental responsibility for that child been contacted? Y/N</i></p> <p><i>(if the person at risk was not contacted, please provide reasons for this)</i></p> <p><i>Please provide brief details of their comments (if applicable) and how any objections they have raised to disclosure have been considered when making this decision</i></p> <p>See paragraphs 8 to 13 of the decision makers guidance</p>	
<p><i>Data Protection legislation – please confirm that you have considered the relevant factors in relation to data protection legislation and whether the proposed disclosure will be compliant with its requirements?</i></p> <p><i>In particular you should identify the specific conditions of Articles 6 and 9 of the GDPR which have been met or provide details of why these conditions are not met</i></p> <p>See paragraphs 14 to 19 of the decision makers guidance</p>	

<p>Article 8 of the European Convention of Human Rights – please confirm that you have considered the relevant factors in relation to Article 8 and that the proposed disclosure does not represent an unlawful interference with any individual’s article 8 rights? It should meet the three criteria at paragraph 22 of the decision maker’s guidance.</p> <p>You should identify the competing interests and summarise the outcome of the balancing exercise you have conducted under article 8 explaining why the disclosure is considered necessary and proportionate. Alternatively, if you feel that disclosure would be a disproportionate interference with article 8, you should record this view and your reasons for it</p> <p>See paragraphs 20 to 22 of the decision makers guidance</p>	
<p>Duty of Confidence – is it necessary in the public interest to disclose confidential information e.g medical records to social services?</p> <p>You should identify the public interest factors that override the duty of confidence or why these factors do not override the duty of confidence</p> <p>See paragraphs 23 to 25 of the decision makers guidance</p>	
<p>Has legal advice been obtained?</p> <p>This may be necessary in particularly</p>	

<p>complex cases or where further advice is needed on whether the proposed disclosure will come under section 35B(2) powers and be compliant with data protection legislation, the duty of confidence and/or the ECHR</p> <p>See paragraph 26 of the guidance</p> <p>If legal advice has been obtained, please briefly summarise the relevant points. The exact wording of the advice should not be reproduced as it is legally privileged.</p>	
<p>If the concern has been raised by a GMC associate e.g expert, health assessor, performance assessor etc, should we disclose it on their behalf or is it more appropriate for them to do so in accordance with their responsibilities as a doctor?</p> <p>See paragraph 27-28 of the guidance</p>	
<p>Decision and rationale – either:</p> <ul style="list-style-type: none"> (i) share information with social services (ii) do not share information with social services (iii) ask GMC associate to raise the concern themselves and confirm when they have done so <p>If the decision is to share the information with social services, the decision maker should confirm the specific information/documents to be disclosed and to whom they relate. The decision maker should also specify whether any redaction of third party details is required.</p> <p>Please see paragraphs 30-33 of the guidance</p>	

<p>Details of social services body to whom the disclosure should be made [please see guidance at Annex B]</p> <p>Have we contacted the social services body to confirm they are the correct organisation to make the referral to and, if so, have they confirmed the e-mail or postal address to which the disclosure should be made?</p>	
<p>Other comments</p>	

Name of decision maker :

(Signed)

(Dated)

Name of second decision maker:

(Signed)

(Dated)

Annex B – Identifying the correct social services organisation

1. It is important that we identify the correct social services organisation before disclosing information to them. The information we will share is sensitive and care must be taken to ensure that it is handled securely and doesn't fall into the wrong hands.
2. The key information determining which social services organisation we will disclose to is the home address of the child or vulnerable adult who is at risk. If this information is not known, we should take reasonable steps to ascertain it including making discreet enquiries with other organisations such as NHS Trusts. In England, Scotland and Wales, it is the local authority (Council) responsible for the area where the person at risk lives who has safeguarding responsibilities for them. In Northern Ireland, it is the local Health and Social Care Trust.

England, Wales and Scotland

3. If the individual at risk lives in England, Wales or Scotland staff should enter their postcode using this [link](#). This will identify the correct local authority and provide a link to their website. Details of how to report safeguarding concerns are usually clearly signposted on local authority websites and you should follow the instructions provided as these may vary from authority to authority. There will often be separate contact details for children's social services and adult social services.
4. If you are in doubt about how to make a disclosure, you should ring the number provided for social services on the local authority's website and make additional enquiries [without providing identifiable details of the person at risk] to clarify the correct procedure for sharing information.

Northern Ireland

5. Concerns about a child – if the concern is about a child residing in Northern Ireland we will need to contact the Gateway Services team for children's social work at the relevant Health and Social Care (HSC) Trust. A list of HSC Trusts and the areas they cover can be accessed using the following link:
<https://www.nidirect.gov.uk/articles/reporting-child-abuse-and-neglect>
6. For concerns about a vulnerable adult, we need to contact the Adult Protection Gateway service at the relevant Health and Social Care Trust. Staff should use the following link to access up to date contact details or look for the information on the

HSC Trust's webpage: <https://www.nidirect.gov.uk/articles/who-contact-if-you-suspect-abuse-exploitation-or-neglect>

Making disclosures

7. If there is any doubt about how to make a secure disclosure to the appropriate organisation, we should make telephone enquiries to ascertain the correct method, procedure and contact details such as e-mail or postal address.
8. Any potential issues or risks in making a secure disclosure should be escalated to the Assistant Director of Policy and Planning, Business Transformation and Safeguarding.