***PROTOCOLS FOR***

**‘INFORMATION SHARING’**

**&**

**‘FOR STRATEGY DISCUSSIONS/MEETINGS UNDER WORKING TOGETHER MARCH 2015‘**

***WITHIN THE PAN DORSET MULTI AGENCY SAFEGUARDING HUB / CO-LOCATION***

***11 October 2016.***











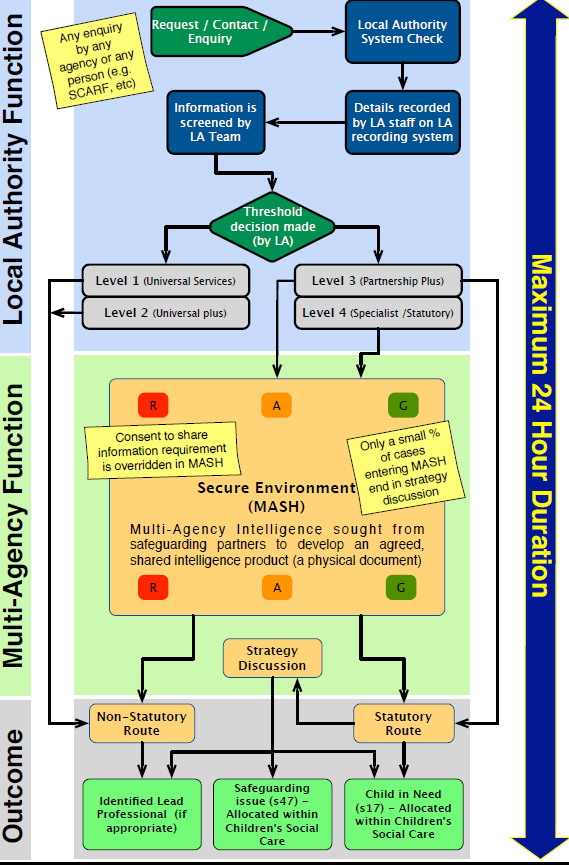
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**INTRODUCTION**

**These documents were considered by the MASH Delivery Group meeting #7 11 October 2016, after a series of discussions attended by all partners.**

**They represent the approach to be adopted in the co-location as of January 2017 onwards and should be read in conjunction with the following workflow model also agreed by partners (see below). It is acknowledged that a review of the documents will take place in due course to ensure that they are clearly understood and easily readable. However, this was agreed to be done once the new working arrangement is in place.**



**INFORMATION SHARING PROTOCOL**

**FOR**

**PAN DORSET MULTI-AGENCY SAFEGUARDING HUB (MASH)**

**PURPOSE:**

**To record agreement between parties on the operation of the MASH and the policies, procedures and processes that will be operated to safeguard children.**

**SUMMARY:**

**This agreement records the common understanding of the information sharing arrangements within Pan Dorset MASH, for the purpose of identifying and assessing risks to children and young people’s wellbeing and safety.**

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1. **INTRODUCTION**
   1. Research and evidence from local and national serious case reviews has demonstrated the importance of information sharing across professional and organisational boundaries to safeguard and protect children. Pan Dorset encourages a culture to promote information sharing with confidence to ensure that assessments and decisions are informed by relevant information held by partner organisations.
   2. Information upon which safeguarding decisions in relation to children are made will be held by numerous statutory and non-statutory agencies. Common themes arising from serious case reviews across the UK are the deficiencies within safeguarding partnerships in relation to the sharing of information and communication. Numerous inquiries have directly attributed the lack of good information sharing and communication to the subsequent death of an individual.
   3. In order to deliver the best safeguarding decisions, which ensure that timely, necessary and proportionate interventions are made, decision makers need as much relevant information as possible, concerning an individual and their circumstances, to be available to them. Information viewed in isolation, or held in silos, will not give a complete picture from which to identify the true level of risk to an individual. Agencies are under statutory duties to share information to promote the safety and welfare of children.
   4. Relevant and proportionate information from various agencies needs to be available and accessible in one place so that a single comprehensive view can be derived. A Multi-Agency Safeguarding Hub (MASH) will help to promote this and will aid communication between all safeguarding partners. By allowing all partners to share information in a timely manner, MASH processes, will help to identify individuals who are subject, or likely to be subject, to harm, thus keeping them safe and enabling signatories to this agreement to legally and securely discharge their statutory obligations.
   5. The MASH model was highlighted in the Munro Report into Child Protection¹ as an example of good practice in multi-agency partnership working because of how it improved information sharing between participating agencies.
   6. The aims of sharing information in this agreement are to:

* Facilitate assessment of risk to enable protection of vulnerable individuals and reduce risk of harm
* Increase the safety, health and well-being of victims of abuse and neglect by promoting better informed and timely multi-agency assessments.
* Identify individuals who may pose significant risk to any particular individual, or to the general public.
* Reduce repeat victimisation.
* Prevent, or detect crime.

1. **KEY FUNCTIONS OF THE MASH**

**Information-based risk assessment and decision making**

Identifying through the best information available, those children who require safeguarding, or protection from harm.

**Victim identification and hard reduction**

Promoting partnership working to deliver harm reduction strategies and interventions to individuals who are at risk.

**Co-ordination of services to support vulnerable people**

Identifying the needs of vulnerable people and signposting the relevant partner(s) for the delivery and co-ordination of harm reduction strategies and timely interventions.

1. **DOCUMENT PURPOSE**
   1. This information sharing agreement formally documents how, through the MASH, the partners to this agreement will be able to share information lawfully about children who have come to the attention of their organisation and may be at risk.

3.2 This agreement has been developed to:

* Define the purposes for which the Partners have agreed to share information
* Set out the legal gateway through which information will be shared e.g., Human rights Act 1998, the Crime and Disorder Act 1998, public interest in common law, the Children’s Acts 1989 and 2004 and Data Protection Act 1998.
* Describe how this arrangement will be monitored and managed.
  1. This agreement does not cover other sharing arrangements between partners that are outside the scope of MASH – these should be covered (where appropriate by alternative information sharing arrangements.

1. **COMMON PRINCIPLES**

4.1 Where applicable, the terms used in this agreement have the same meaning as the Data Protection Act 1998.

4.2 Each partner to this agreement is the Data Controller for the information they hold and is solely responsible for securing their lawful basis for sharing.

4.3 Data controllers sharing personal data on data subjects for the purpose of the MASH will be responsible for their own, or their employee’s actions and will be liable for any breach the incur under the Data Protection Act 1998 and neither partner intends that the other partner shall be liable for any loss it suffers as a result of it’s, or it’s employee’s actions.

4.4 The eight Principles of the Data Protection Act 1998² have been used to provide a framework within which to consider the lawful basis for sharing information under this agreement, these are described below.

4.5 Each partner will have a different statutory basis for holding and processing the information it needs to fulfil its legal duties. A number of common considerations have been included here, but the variety and complexity of partners and the law means that it is impractical for guidance to be fully comprehensive and universally applicable. Each partner must obtain its own assurances and be satisfied that it has a lawful basis for sharing the information it holds.

4.6 This document follows, where applicable, the Data sharing code of practice, published by the Information Commissioner’s Office³.

1. **LEGISLATION**
   1. Legislation allows the lawful sharing of personal data and is covered in this document using the following legislative frameworks. For the avoidance of doubt, data should only be shared within the MASH for the purposes of safeguarding children and promoting the welfare of children and for the prevention and detection of related crime.

**The Data Protection Act 1998**

* 1. **First Principle: Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless:**

1. **At least one of the conditions in Schedule 2 is met and**
2. **In the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.**
   * 1. Schedule 2 sets out the conditions necessary for any processing of personal data to take place. For the MASH, the relevant principles are:
3. The data subject has given his consent to the processing
4. The processing is necessary to meet any legal obligations to which the data controller is subject
5. The processing is necessary in order to protect the vital interest of the data subject.
6. The processing is necessary:-
7. For the exercise of any functions conferred on any person by, or under any enactment.
8. For the exercise of any other functions of a public nature exercised in the public interest by any person.
9. The processing is necessary for the purposes of legitimate interests pursued by the data controller, or by a third party, or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms, or legitimate interests of the data subject.
   * 1. Schedule 3 applied to sensitive data; it is likely that almost all of the data being shared through the MASH will fall in to this category. In addition to the schedule 2 conditions, the following conditions of schedule 3 are likely to apply:
10. The data subject has given explicit consent to the processing of the personal data.
11. The processing is necessary –
12. In order to protect the vital interests (life, or death) of the data subject, or another person, in a case where:-
13. Consent cannot be given by, or on behalf of the data subject, or
14. The data controller cannot reasonably be expected to obtain the consent of the data subject, or
15. In order to protect the vital interests of another person, in a case where consent by, or on behalf of the data subject has been unreasonably withheld.
16. The processing:
17. Is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings)

1. Is necessary for the purpose of obtaining legal advice, or
2. Is otherwise necessary for the purposes of establishing, exercising, or defending legal rights
3. The processing is necessary:

(b) For the exercise of any functions conferred on any person by, or under an enactment

1. The processing is necessary for medical purposes and is undertaken by:
2. A health professional, or
3. A person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.
   1. **Second Principle: Personal data shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose, or those purposes.**
      1. Information shared through this agreement is obtained solely for the purpose of promoting the safety and welfare of children and the prevention and detection of related crime.
      2. Information shared through this agreement will not be processed in any manner contradictory to that purpose.
      3. Each partner is a Data Controller and responsible for issuing Privacy/Fair Processing Notices which accurately reflect this purpose and are accessible to all data subjects.
      4. A notice explain the concept of MASH and how it works in Dorset is available on the MASH website.

**5.4 Third Principle: Personal data shall be adequate, relevant and not excessive in relation to the purpose, or purposes for which they are processed.**

5.4.1 Due to the complexity of the MASH, providing a comprehensive, prescriptive list of data fields to be shared is impractical. Once a referral has been received by the MASH, decisions on which information systems will be scrutinised will be decided on a case-by-case basis. Only relevant and proportionate information will be shared where an organisation has a ‘need-to-know’ justification to see the information.

* 1. **Fourth Principle: Personal data shall be accurate and, where necessary, kept up to date.**

5.5.1 The content and accuracy of shared information will be subject to each Partner’s quality control procedures and validation.

**5.6 Fifth Principle: Personal data processed for any purpose, or purposes shall not be kept for longer than is necessary for that purpose, or those purposes.**

5.6.1 Data destruction at the end of its retention period must be undertaken in accordance with organisational policies and Principle 7 of the Data Protection Act (see below).

**5.7 Sixth Principle: Personal data shall be processed in accordance with the rights of data subjects under this Act**

5.7.1 Partners will respond to any notice from the Information Commissioner that imposes requirements to cease, or change the way in which data is processed.

5.7.2 Each Partner Data Controller is responsible for responding appropriately to Subject Access Requests addressed to them and to providing information to the data subject to enable them to make appropriate requests to other partners where appropriate.

5.7.3 Data subjects have the right to object to processing. How the data subject makes such objections should be detailed in each Partner’s Privacy Notice.

5.7.4 Data subjects have the right to correct inaccuracies in their record. Each partner must have policies and processes in order to comply with DPA Principle 4. These should be employed in the event of such a notification and, where it relates to data obtained through the MASH, the originating Partner should be notified.

**5.8 Seventh Principle: Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss, or destruction of, or damage to, personal data.**

5.8.1 Measures to satisfy the Seventh Principle are detailed in each Organisation’s own Information Security Protocols details responsibilities and arrangements relating to this requirement.

**5.9 Eighth Principle: Personal data shall *not* be transferred to a country, or territory outside the European Economic Areas, unless that country, or territory ensures an adequate level of protection for the rights and freedom of data subjects in relation to the processing of personal data.**

MASH information shared under this agreement will not, under any circumstances, be transferred overseas.

5.10 **Data Protection Act 1998**, section 29, provides certain exemptions when personal information is used for the prevention and detection of crim and/or for the apprehension and prosecution of offenders if complying with fair processing conditions, i.e., telling individuals how their data will be processed/shared, would prejudice the purpose. Information processed for this purpose is exempted from disclosure in response to a Subject Access Request.

5.11 **The Children Act 2004**(4) (s.11) provides a basis for processing and sharing data under schedule 2: 3, 4, 5(b), 5(d) and 6(1) and schedule 3: 3(a), 3(b) and (7(1)(b) by all of the public sector bodies that are Partners to this agreement.

5.11.1 The Act, although amended by the Health and Social Care Act 2012, does not provide a basis for processing by non-Public Sector bodies, i.e., healthcare providers that are not NHS Trusts, or NHS Foundation Trusts, charities, or private providers.

5.11.2 The Act emphasises the importance of safeguarding the welfare of children by stating that relevant partner agencies – which include the Police, Children’s Services Authorities and CCG NHS Commissioning Boards and other NHS statutory bodies, must ensure that functions are discharged having regard to the need to safeguard of children. The Act (S10) also states that they must make arrangements to promote co-operation between relevant partner agencies to improve the well-being of children in their area. Well-being is defined by the Act as relating to a child’s:

* Physical and mental health and emotion well-being
* Protection from harm and neglect
* Education, training and recreation
* The contribution made by them to society
* Social and economic well-being

Although most commonly used to refer to young people aged sixteen, or under, ‘‘children’ in terms of the scope of this Act means those up to the age of eighteen.

5.11.3 For children and young people, the nature of the information that will be shared under this agreement may fall below a statutory threshold of S.47 (children in need of protection) or even S.17 (children in need of services) **Children Act 1989**(5). If the information to be shared does fall within these sections of the 1989 Act, then these will be the main legal gateway.

5.12 **The Localism Act 2011** gives local authorities the power to do anything that individuals may generally do. Under S1 of the Act they have the power to do anything which they consider is for the benefit of the authority, its area, or person’s resident or present in its area.

5.13 **Crime and Disorder Act 1998**(6), section 115 provides a legal basis for sharing information for the prevention and detection of crime and disorder with a relevant authority. Relevant authorities include: Police, Probation, Local Authorities, NHS Trusts, CCG’s and other NHS statutory bodies.

5.14 **Human Rights Act 1998** gives force to the European Convention on Human rights and, amongst other things, places an obligation on public authorities to protect people’s **Article 2 right to life and Article 3 right to be free from torture or degrading treatments.** There needs to be a balance between the desire to share, with a person’s right to privacy under the **Human Rights Act Article 8: (the right to respect for private and family life, home and correspondence).**  There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in the interests of national security public safety, or for the prevention of disorder, or crime, for the protection of health, or morals, or for the protection of the rights and freedoms of others.

5.15 **The Mental Capacity Act 2005**. Under the Mental Capacity Act 2005 staff are required to apply 5 principles in their assessments to decide whether to share information without consent in persons’ best interests. As described in 2.4 of the MCA Code of Practice, ‘it is important to balance people’s right to make a decision with their right to safety and protection when they can’t make decisions to protect themselves. The starting assumption must always be that an individual has the capacity, until there is proof that they do not.

5.15.1 Under the Mental Capacity Act 2005 there would have to be good reasons for not undertaking an assessment of mental capacity regarding the decision to share information without consent, and these would need to be documented carefully.

1. **CONSENT**

6.1.1 Obtaining **consent** is one of the conditions for processing which can be used to satisfy Principle 1 of the Data Protection Act. In circumstances where it is appropriate and possible, explicit and informed consent should be sought from and freely given by the data subject. Partners must ensure that consent is appropriately and clearly documented. Consent only allows for the disclosure of data subject information, further consent should be sought from other third parties unless the over-riding principles apply and that information shared is relevant and proportionate.

6.1.2 Where possible, consent should be obtained by the referring Partner before individual cases are brought to the MASH. In these cases, individuals will have a legitimate expectation of how their data is going to be used and with whom it may be shared and why. Where consent has not been obtained, reasons for this will be documented on the interagency referral form. The rule of proportionality should be applied to ensure that a fair balance is achieved between the public interest and the rights of the data subject.

6.1.3 In some cases, the aims of the MASH might be prejudiced if Partners were to seek consent. In such cases the disclosing Partner must consider other lawful basis for processing.

6.1.4 It is possible to disclose personal information without consent if this is in the defined category of Public Interest. The principles of the Data Protection Act would still apply in such cases.

The Public Interest Criteria include the:

* Administration of Justice
* Maintaining of public safety
* Apprehension of offenders
* Prevention of crim and disorder
* Detection of crime
* Protection of vulnerable members of the community

When judging the public interest, it is necessary to consider the following:

* Is the intended disclosure proportionate to the intended aim?
* What is the vulnerability of those who are at risk?
* What is the impact of disclosure likely to be on the individual to whom the share information pertains?
* Is there another equally effective means of achieving the same aim?
* Is the disclosure necessary to prevent, or detect crime and uphold the rights and freedoms of the public?
* Is it necessary to disclose the information, to protect others?

6.1.5 Information held by agencies that will be shared as part of the MASH assessment process is likely to have been gathered where a **Duty of Confidence** is owed. Duty of confidence is not an absolute bar to disclosure, as information can be shared where there is a strong enough public interest test before passing the information to a Partner.

6.1.6 When overriding the Duty of Confidence in the absence of consent the MASH must seek the views of the person representing the organisation that holds the Duty of Confidence and take these into account in relation to breaching the confidence. The originating Partner will be the final arbiter as to whether information is disclosed, or not. The Partner may wish to seek specialist or legal advice if there is lack of clarity around justifiable disclosure could lead to a claim for damages against the disclosing party.

6.1.7 **All staff** must be particularly mindful of their professional and ethical obligations and the public interest of confidence in the confidentiality of their services. It may be necessary to seek advice on professional conduct as well as legal advice before sharing information without consent, especially for information related to the treatment of mental illness. All staff should ensure the need to protect children takes into account the children’s rights as well as those of the adults concerned.

1. **AGREEMENT**

7.1.1 This agreement is endorsed by the signatories identified in the document and is based on their opinion of the ethical and legal requirements of information sharing that should be applied. The specific purpose of this document is to clarify that understanding and to provide guidance.

7.1.2 This is not a legally binding agreement and the content should not be taken as legal advice. Where necessary, further advice on information sharing issues should be sought from the relevant Partner’s nominated person and professional legal advice must be sought where appropriate.

7.1.3 Partners agree to:

* Facilitate the sharing of information in accordance with this agreement.
* Ensure that staff are fully aware of the process for information sharing and will comply with all legal requirements.
* Ensure information held is kept secure at all times.

7.1.4 Partners agree to seek the permission of the originating Partner if they wish to disseminate shared information outside of the MASH environment. Such permission will only be granted where proposed sharing is within the agreed principles.

7.1.5 Any partner may withdraw from this agreement on giving written notice to the other Partners. Any information obtained whilst a Partner will remain subject to the terms of this agreement.

7.1.7 Partners to this agreement confirm that they have adequate information governance measures in place to ensure that they can comply with this agreement.

1. **MONITORING AND REPORTING**

8.1.1 A Management Board comprising a representative of each organisation, either the signatory to this agreement, or someone nominated by them, will maintain oversight of this agreement and the operation of the MASH. The arrangements in this agreement will be reviewed by the Management Board annually.

8.1.2 Any breaches in the Information Security Protocol will be reported as outlined in the Information Security Protocol and to the Management Board.

8.1.3 The Management Board meets as required as agreed in the Terms of Reference.

1. **SANCTIONS**

9.1.1 Any individuals within the MASH being identified as breached information security protocol may be removed from the MASH environment pending investigation. Agencies will lead and conduct their own investigation.

9.1.2 All parties are aware that in some circumstances, non-compliance with the terms of this agreement by any partner may result in the partner being brought to the attention of the Management Board for consideration of further action.

1. **IMPLEMENTATION**

10.1.1 Each partner is responsible for ensuring that all staff likely to come in contact with the data shared under this agreement are aware of the terms of this agreement and their personal responsibilities under that organisation’s policies and common law.

1. **COMPLAINTS**

11.1.1 Any complaints will be reported to the Management Board for consideration.

1. **FREEDOM OF INFORMATION ACT**

12.1.1 This document and the arrangements it details may be disclosed under the Freedom of Information Act 2000 and should be published in the partner’s Publication Scheme.

1. **GLOSSARY OF TERMS**

**GCG** – Clinical Commissioning Group

**Child** – an individual up to the age of 18 years

**Consent** – The Information Commissioner’s legal guidance to the Data Protection Act 1998 is to refer to the Directive, which defines consent as ‘… any freely given specific and informed indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed … ‘

**Consent** – For consent to be valid, it must be voluntary and informed and the person consenting must have the capacity to make the decision.

**Controlled** – a process by which the issue of access is logged to an individual and access rights are granted on a specific basis.

**Data/Information** –

1. Information being processed by means of equipment operating automatically or
2. Information recorded with the intention it be processed by such equipment.
3. Recorded as part of a relevant filing system or
4. Not in a, or b, or c but forming part of an accessible record.
5. Is recorded information held by a public authority and does not fall into any of a-d above.

**Data Controller** – a person, or a legal body such as a business, or public authority who jointly, or alone determines the purposes for which personal data is processed.

**Data Subject** – an individual to whom data information relates

**Data Processing** – obtaining, recording, or holding information, or carrying out any operation, or set of operations on that data.

**DBS** – Disclosure and Barring Service

**Disclosure** – the passing of information from the Data Controller to another organisation/individual

**DPA** – Data Protection Act

**Fair Processing** – inform the Data Subject how the data is to be processed before processing occurs.

**MASH** – Multi-Agency Safeguarding Hub

**Medical Purposes** – The purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services

**Need to Know** – no person is entitled, solely by virtue of rank, or appointment to have knowledge of, access to, or possession of information unless they are explicitly authorised, security cleared and need to know it in order to carry out their duties lawfully and efficiently.

**Proportionality** – the measure must be necessary to achieve the aim, that there is no less intrusive way of doing it.

**Partners** – the signatories to this agreement

**Safe Haven** – a secure physical location with administrative arrangements in place to ensure confidential personal information is communicated safely and securely.

**Subject Access** – the individual’s right to obtain a copy of information held about them.

**BREACHES OF INFORMATION SECURITY PROTOCOLS**

**APPENDIX 1: Information Security Protocol**

* 1. **Scope**

1.1.1 A security incident is defined as:

* Accidental or deliberate unauthorised disclosure of information;
* Accidental or deliberate unauthorised destruction of information;
* Accidental or deliberate unauthorised modification of information;
* Deliberate and unauthorised denial of access to any system to authorised users;
* Unauthorised access, or attempted unauthorised access, to systems, or data;
* Breach, or attempted breach, of MASH premises security;
* Misuse of data;
* Theft, or attempted theft of assets;
* Misplacement of equipment, data, reports, or media;
* Compromise of cryptographic materials;
* Introduction of unauthorised hardware, or software to any systems in use by the MASH.
* Any other event, action, or circumstance that potentially affects the security of the information shared.

1. **STORAGE OF INFORMATION**

**2.1 Electronic Information**

2.1.1 Information held on ICT systems including databases and storage systems shall be accessible only by authorised individuals.

2.1.2 Only authorised senior staff from the relevant organisations within the MASH environment will be party to the discussions that take place for the purposes of determining what information should be disclosed as part of the final intelligence package to be sent to the relevant operational teams.

**2.2 Paper Documentation**

2.2.1 Whilst it is not envisaged that paper documentation will be used, there may be some instances where paper documentation is produced, this must be stored in secure cabinets for the duration of its lifecycle when it is not in used and then appropriately, securely disposed of. No paper documentation is to be removed from the MASH secure environment under any circumstances.

1. **TRANSMISSION OF INFORMATION**

3.1 Information transmitted to, or from the MASH between agencies shall be by secure email (e.g. GCSX) or fax as appropriate depending on the sensitivity of the information and the impact level to which the medium is accredited.

3.2 Information will be received by e-mail, or phone. Notes of phone calls should be stored securely.

3.3 Communication to be sent through agreed system networks.

1. **RETENTION OF RECORDS**

4.1 Information will be stored by each Local Authority in accordance with procedures.

**5. DESTRUCTION OF RECORDS**

5.1 All documents will be destroyed in accordance with each Local Authority’s procedures.

1. **AUDIT**

6.1 The MASH Managers shall facilitate the audit of the MASH operation and ensure

that process and procedures relating to this and any other protocol applicable to the

operation of the MASH are adhered to at all times.

**Appendix 2**

Sharing information within the MASH

**Sharing information within the MASH: relevant Legislation and Statutory Guidance**

|  |  |
| --- | --- |
| **Legislation** | **Section Description** |
| **Borders, Citizenship and Immigration Act 2009** | **Section 55 –** this section places a duty on the Secretary of State to make arrangements for ensuring that immigration, asylum, nationality and customs functions are discharged having regard to the need to safeguard and promote the welfare of children in the UK.  This section applies to the UK Border Agency and is similar to the duties placed on local authorities under section 11 of the Children Act 2004. |
| **Children Act 1989** | **Section 17** – general duty of local authorities to safeguard and promote the welfare of children within their area who are in need, and so far as is consistent with that duty, to promote the upbringing of such children by their families.  **Section 47 –** where a local authority is informed that a child who lives, or is found in their area, is the subject of an emergency protection order or is in police protection or there is reasonable cause to suspect that a child who lives, or, is found in their area is suffering, or is likely to suffer significant harm, there is a duty to investigate. |
| **Children Act 2004** | **Section 10 –** promote co-operation to improve wellbeing.  **Section 11 –** arrangements to safeguard and promote welfare. |
| **Crime and Disorder Act 1998** | **Section 17 –** duty of each authority to exercise its functions with due regards to the likely effect of the exercise of those functions, and the need to do all that it reasonably can, to prevent crime and disorder in its area.  **Section 115 –** any person who apart from this section would not have power to disclose information to a relevant authority or to a person acting on behalf of such an authority, shall have the power to do so in any case where the disclosure is necessary or expedient for the purposes of this act. |
| **Criminal Justice and Courts Services** | **Section 67 –** the authority for each area must establish arrangements for the purpose of assessing and managing the risks posed in that area by relevant sexual or violent offenders and other persons who have committed offences who are considered by the authority to be persons who may cause serious harm to the public.  **Section 68 –** Interpretation of who is a relevant sexual offender. |
| **Data Protection** | **Section 29 (3) –** where disclosure is required for the prevention of detection of crime of the apprehension or prosecution of offenders.  **Section 35 (1) –** where the disclosure is required by or under enactment, by any rule of law or by the order of a court. |
| **Education Act 2002** | **Section 175 –** a local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children. |
| **Local Government Act 1972** | **Section 111 (1) –** a local authority shall have the power to do anything which is calculated to facilitate, or is conducive to or incidental to the discharge of any of their statutory functions. |
| **Local Government Act 2000** | Section 2 (1) – a local authority shall have the power to do anything which they consider is likely to achieve the promotion or improvement of the social well-being of their area. |
| **National Health Service Act 2006** | **Section 82 –** in exercising their respective functions NHS bodies and local authorities must co-operate with one another in order to secure and advance the health and welfare of the people in England and Wales.  **Section 201 (3) (d) –** a disclosure of information may be made if it is for the purposes of any criminal investigation or proceedings.  **Section 201 (6) –** Information to which this section applies may be disclosed in accordance with section 201 (3) despite any obligation of confidence that would otherwise prohibit or restrict the disclosure. |
| **Health and Social Care Act 2012** | **14Z23 Permitted disclosures of information –**   1. A clinical commissioning group may disclose information obtained by it in the exercise of its functions if: 2. The information has previously been lawfully disclosed to the public 3. The disclosure is made under or pursuant to regulations under section 113 or 114 of the Health and Social Care (Community Health and Standards) Act 2003 (complaints about health care or social services). 4. The disclosure is made in accordance with any enactment or court order, 5. The disclosure is necessary or expedient for the purposes of protecting the welfare of any individual 6. The disclosure is made to any person in circumstances where it is necessary or expedient for the person to have the information for the purpose of exercising functions of that person under any enactment. 7. The disclosure is made for the purpose of facilitating the exercise of any of the clinical commissioning group’s functions 8. The disclosure is made in connection with the investigation of criminal offence (whether or not in the United Kingdom), OR 9. The disclosure is made for the purpose of criminal proceedings (whether or not in the United Kingdom) 10. Paragraphs (a) to (c) and (h) of subsection (1), have effect not withstanding any rule of common law which would otherwise prohibit or restrict disclosure |
| **Statutory Guidance** |  |
| **Working Together to Safeguard Children 2015** | **A guide to inter-agency working to safeguard and promote the welfare of children (March 2013)** |

**PROTOCOL FOR STRATEGY DISCUSSIONS/MEETINGS UNDER WORKING TOGETHER, MARCH 2015, WITHIN THE PAN DORSET MASH (Please see appendix one)**

**Strategy Discussions/Meetings or requests for re-convened Strategy Discussions/Meetings on open cases in Children’s Social Care, will not be held in the MASH. The usual arrangements by the LAs/Police and Health will continue in these cases. (Please see process chart one)**

**The following refers to all new cases where the Local Authority considers that a Strategy meeting is required if it appears there are child protection concerns. (Please see process chart two):-**

1. Strategy Discussions/Meetings will take place in the MASH on all new cases with the exception of a child who is already admitted in hospital, in which case, the Strategy Discussion/Meeting should be held with hospital staff. This will be during core operational hours.
2. Strategy Discussions/Meetings follow an urgent child protection referral through to one of the LAs in the MASH or following MASH information sharing about a child’s safeguarding concern and there is reasonable cause to suspect that a child is suffering, or is likely to suffer significant harm.
3. The individual LA will request the Strategy Discussion/Meeting, using the PanDorset Strategy Request Form, with Police and Health and consider any other agency, including a paediatrician if necessary, that needs to be involved in the multi-agency discussion/meeting.
4. The responsible Manager of the relevant LA will chair the meeting and record this on the Strategy Discussion/agenda document which will be kept on the LA’s IT recording system. The Manager will ensure that a copy of this is sent to the Police, Health and any other agency involved in the Strategy Discussion/Meeting within 48 hours.
5. If the referral is an emergency and needs an urgent Strategy Discussion/Meeting, and has not had a MASH discussion, the Strategy Discussion/Meeting will consider all available information at the time.
6. Child protection is a joint responsibility, however, the LA Children’s Social Care will lead for the Section 47 enquiries and assessment of the Child’s welfare and the Police will be responsible for leading any criminal investigation.
7. Relevant partners who are responsible to carry actions as agreed at the Strategy discussion/meeting will agree what actions their agency will be responsible for. The Manager of the relevant LA will provide the name of the allocated social worker/team in order relevant partners and agencies can feed back their actions.
8. The LAs based in the MASH will have robust arrangements with the Social Care Teams in order that any Section 47 enquiries and/or assessment of needs can be initiated immediately following the Strategy Discussion/Meeting.
9. The LA Children’s Social Care will feed back the outcome of the assessment to relevant partners and date of the child protection conference if necessary.
10. *LA Children’s Social Care Out of Hours Service – Expectations of requesting Strategy discussions/meetings with police and health as outlined above are the same except this would be via telephone request given the emergency nature of the child protection concern to OOHs. The recording of Strategy discussions/meetings should be undertaken by the OOHs responsible Manager in order that individual LAs can access this the following morning or following the weekend and continue with the planning for the child/young person.*
11. If any partner disagrees with the outcome of the Strategy Discussion/Meeting then they will refer to the Escalation policy, LSCB.

**APPENDIX ONE – From Working Together, 2015**

**Strategy Discussion**

Wherever there is reasonable cause to suspect that a child is suffering, or is likely to suffer significant harm there should be a strategy discussion involving local authority children’s social care (including the fostering service, if the child is looked after), the police, health and other bodies such as the referring agency. This might take the form of a multi-agency meeting or phone calls and more than one discussion may be necessary. A strategy discussion can take place following a referral or at any other time, including during the assessment process.

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| **Purpose:** | Local authority children’s social care should convene a strategy discussion to determine the child’s welfare and plan rapid future action if there is reasonable cause to suspect the child is suffering, or is likely to suffer significant harm |
| **Strategy discussion attendees:** | A local authority social worker and their manager, health professionals and a police representative should, as a minimum, be involved in the strategy discussion. Other relevant professionals will depend on the nature of the individual case but may include:   * the professional or agency which made the referral; * the child’s school or nursery; and * any health services the child or family members are receiving.   All attendees should be sufficiently senior to make decisions on behalf of their agencies. |
| **Strategy**  **Discussion tasks:** | The discussion should be used to:   * share available information; * agree the conduct and timing of any criminal investigation; and * decide whether enquiries under section 47 of the Children Act 1989 should be undertaken.   Where there are grounds to initiate an enquiry under section 47 of the Children Act 1989, decisions should be made as to:   * what further information is needed if an assessment is already underway and how it will be obtained and recorded. * what immediate and short term action is required to support the child, and who will do what by when; and * whether legal action is required.   The timescale for the assessment to reach a decision on next steps should be based upon the needs of the individual child, consistent with the local protocol and certainly no longer than **45 working days** from the point of referral into local authority children’s social care.  The principles and parameters for the assessment of children in need at chapter 1 paragraph 35 should be followed for assessments undertaken under section 47 of the Children Act 1989. |
| **Social workers with their managers should:** | * convene the strategy discussion and make sure it: * considers the child’s welfare and safety, and identifies the level of risk faced by the child; * decides what information should be shared with the child and family (on the basis that information is not shared if this may jeopardise a police investigation or place the child at risk of significant harm); * agrees what further action is required, and who will do what by when, where an EPO is in place or the child is the subject of police powers of protection; * records agreed decisions in accordance with local recording procedures; and * follows up actions to make sure what was agreed gets done. |
| **The police should:** | * discuss the basis for any criminal investigation and any relevant processes that other agencies might need to know about, including the timing and methods of evidence gathering; and * lead the criminal investigation (local authority children’s social care have the lead for the section 47 enquiries and assessment of the child’s welfare) where joint enquiries take place. |

**Flow chart 4: Action following a strategy discussion**

**Further decisions made about on-going assessment and service provision according to agreed plan**

**Child is subject of child protection plan; outline child protection plan prepared; core group established – see flow chart 5**

Child not likely to suffer significant harm

Child likely to suffer significant harm

Decisions made and recorded at child protection conference

**With family and other professionals, agree plan for ensuring child’s future safety and welfare and record and act on decisions**

Social worker leads completion of assessment

Social work manager convenes child protection conference within **15 working days** of the strategy discussion at which section 47 enquiries were initiated.

Concerns substantiated, child likely to suffer significant harm

No

Yes

**With family and other professionals, agree plan for ensuring child’s future safety and welfare and record and act on decisions**

Agree whether child protection conference is necessary and record decisions

Concerns substantiated but child not likely to suffer significant harm

Concerns about child not substantiated but child is a child in need

Social worker leads assessment under section 47 of the Children Act 1989 and other professionals contribute. Assessments follow local protocol based on the needs of the child within 45 working days of the point of referral.

Decision to complete assessment under section 17 of the Children Act 1989

Police investigate

possible crime

**Strategy discussion is** **convened by LA children’s social care to decide whether to initiate section 47 enquiries.**

**Decisions are recorded**

Decision to initiate section 47 enquiries

No further LA children’s social care involvement at this stage, but other services may be requires

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| **Initiating section 47 enquires – From Working Together, 2015**  A section 47 enquiry is carried out by undertaking or continuing with an assessment in accordance with the guidance set out in this chapter and following the principles and parameters of a good assessment.  Local authority social workers have a statutory duty to lead assessments under section 47 of the Children Act 1989. The police, health professionals, teachers and other relevant professionals should help the local authority in undertaking its enquiries. | |
| **Purpose:** | A section 47 enquiry is initiated to decide whether and what type of action is required to safeguard and promote the welfare of a child who is suspected of, or likely to be, suffering significant harm. |
| **Social workers with their managers should;** | * lead the assessment in accordance with this guidance; * carry out enquiries in a way the minimises distress for the child and family; * see the child who is the subject of concern to ascertain their wishes and feelings; assess their understanding of their situation; assess their relationships and circumstances more broadly; * interview parents and/or caregivers and determine the wider social and environmental factors that might impact on them and their child; * systematically gather information about the child’s and family’s history; * analyse the findings of the assessment and evidence about what interventions are likely to be more effective with other relevant professionals to determine the child’s needs and the level of risk of harm faced by the child to inform what help should be provided and act to provide that help; and * follow the guidance set out in *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures,* where a decision has been made to undertake a joint interview of the child as part of any criminal investigation 20 |
| **The police should:** | * help other agencies understand the reasons for concerns about the child’s safety and welfare; * decide whether or not police investigations reveal grounds for instigating criminal proceedings; * make available to other professionals any evidence gathered to inform discussions about the child’s welfare; and * follow the guidance set out in *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures,* where a decision has been made to undertake a joint interview of the child as part of the criminal investigations.21 |
| **Health professionals should:** | * undertake appropriate medical tests, examinations or observations, to determine how the child’s health or development may be being impaired; * provide any of a range of specialist assessments. For example, physiotherapists, occupational therapists, speech and language therapists and child psychologists may be involved in specific assessments relating to the child’s developmental progress. The lead health practitioner (probably a consultant paediatrician, or possibly the child’s GP) may need to request and co-ordinate these assessments; and * ensure appropriate treatment and follow up health concerns. |
| **All involved professionals should:** | * contribute to the assessment as required, providing information about the child and family; and * consider whether a joint enquiry/investigation team may need to speak to a child victim without the knowledge of the parent or caregiver. |

20 Ministry of Justice *Achieving Best Evidence in Criminal Proceedings: Guidance on interviewing victims and witnesses, and guidance on using special measures* (2011)

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| **Outcome of section 47 enquiries – From Working Together, 2015**  Local authority social workers are responsible for deciding what action to take and how to proceed following section 47 enquiries.  If local authority children’s social care decides not to proceed with a child protection conference then other professionals involved with the child and family have the right to request that local authority children’s social care convene a conference, if they have serious concerns that a child’s welfare may not be adequately safeguarded. As a last resort, the LSCB should have in place a quick and straightforward means of resolving differences of opinion. | |
| **Where concerns of significant harm are not substantiated:** | |
| **Social workers with their managers should:** | * discuss the case with the child, parents and other professionals; * determine whether support from any services may be helpful and help secure it; and * consider whether the child’s health and development should be re-assessed regularly against specific objectives and decide who has responsibility for doing this. |
| **All involved professionals should:** | * participate in further discussions as necessary; * contribute to the development of any plan as appropriate; * provide services as specified in the plan for the child; and * review the impact of services delivered as agreed in the plan. |
| **Where concerns of significant harm are substantiated and the child is judged to be suffering, or likely to suffer, significant harm:** | |
| **Social workers with their managers should:** | * convene an initial child protection conference (see next section for details). The timing of this conference should depend on the urgency of the case and respond to the needs of the child and the nature and severity of the harm they may be facing. The initial child protection conference should take place within **15 working days** of a strategy discussion, or the strategy discussion at which section 47 enquiries were initiated if more than one has been held; * consider whether any professionals with specialist knowledge should be invited to participate; * ensure that the child and their parents understand the purpose of the conference and who will attend; and * help prepare the child if he or she is attending or making representations through a third party to the conference. Give information about advocacy agencies and explain that the family may bring an advocate, friend or supporter. |
| **All involved professionals should:** | * contribute to the information their agency provided ahead of the conference, setting out the nature of the agency’s involvement with the child and family. * Consider, in conjunction with the police and the appointed conference Chair, whether the report can and should be shared with the parents and if so, when; and * Attend the conference and take part in decision making when invited. |

