



Information Sharing for Trusted Partner Agencies

What you can share and what the lawful basis is

Hampshire Constabulary rely on information and intelligence gathered from multiple sources in order to effectively tackle crime and disorder and safeguard citizens across Hampshire.

An important part of the intelligence we develop is derived from non-urgent information provided by partner agencies through the so-called Community Partnership Information (CPI) forms. Information shared through this channel is of relevance to the Missing, Exploited, and Trafficked agenda, and address issues such as Modern Slavery. The forms are also useful in gathering information relating to Community Cohesion and related concerns such as: Tensions, Political Unrest, Racial and Religious issues, Immigration, Asylum, and Refugees, Drug-Related Harm, Anti-Social Behaviour, and Organised Crime Group activity.

On the 25th of May last year, the EU's General Data Protection Regulation (GDPR) came into force (adopted by the UK into the Data Protection Act (DPA) 2018) and with it more rights and obligations with regards to data protection. However, even though more stringent measures have been implemented for organisations processing personal data, this does not mean that it has become impossible to share information between agencies. Sharing information about adults, children and young people at risk is still permitted, as long as there is a specific purpose and you can demonstrate the lawful basis for the sharing.

Under the GDPR, there are six lawful bases for sharing and processing personal data, and a further 10 for sharing and processing special category data¹. If you are sharing personal data, you require only one of the first six lawful bases, but if you are processing special category data you require one of the 10 special category conditions in addition. However, your choice of lawful basis for personal data does not decide which special category basis you use as some of them overlap.

¹ Special category data is more sensitive, and so deemed to require more protection. Special category data consists of information about an individual's:

- Race;
- Ethnic origin;
- Politics;
- Religion;
- Trade union membership;
- Genetics;
- Biometrics (where used for ID purposes);
- Health;
- Sex life; or
- Sexual orientation.

You must make sure you are clear what lawful basis you are using before sharing and processing information and you must document it. You cannot swap to another lawful basis later on down the line. No lawful basis is better or more important than the others, it all depends on what you are sharing and what the purpose is.

Under Article 6 of the GDPR, the six lawful bases for processing personal data are:

- a) **Consent:** the individual has given clear consent for you to process their personal data for a specific purpose.
- b) **Contract:** the processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering into a contract.
- c) **Legal obligation:** the processing is necessary for you to comply with the law (not including contractual obligations).
- d) **Vital interests:** the processing is necessary to protect someone's life.
- e) **Public task:** the processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
- f) **Legitimate interests:** the processing is necessary for your legitimate interests or the legitimate interests of a third party, unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

The conditions for processing special category data are reported in Article 9(2) of the GDPR and can also be found on the Information Commissioner's website, alongside other guidance around lawful bases for processing [here](#).

However, the legal justification to share information does not stop at only the GDPR. There are other grounds in UK legislation that support and warrant the sharing of information. These are the following:

Basis	Legal justification
Prevention and detection of crime.	Section 115 Crime and Disorder Act 1998
To protect vital interests of the data subject; serious harm or matter of life or death.	Schedule 8 DPA 2018
For the administration of justice (usually bringing perpetrators to justice).	Part 3 & Schedule 8 DPA 2018
For the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.	Part 3 Schedule 31 & 35 DPA 2018
Child protection.	Children Act 1989 & Section 11 Children Act 2004
In accordance with a court order.	(So requests to share information must show why it is relevant for the purpose for which they are requested, including a Court Order.)

Overriding public interest.	Common law
Right to life. Right to be free from torture or inhuman or degrading treatment.	Articles 2 & 3 Human Rights Act
Prevention of Abuse and Neglect.	The Care Act 2014
Person lacks the mental capacity to make the decision regarding consent.	Mental Capacity Act 2005

As stated before, decisions to share information must be justifiable and proportionate, and the information shared must be relevant to the purpose and limited to what is necessary, not simply all the information held. The decision must furthermore be based on the potential for actual harm to adults or children at risk and the rationale for the data sharing should always be recorded. As the auditing of data sharing (and processing) has become an important part under the new data protection regime, make sure you make a record of the lawful basis, the information to be shared, and with whom the sharing took place as well. To assist with any decisions, you can use the ICO's data sharing checklist [here](#).