



2.6A GUIDANCE ON INFORMATION SHARING

The effective protection of a child often depends on the willingness of people to share and exchange relevant information appropriately. It is critical that there is a clear understanding of the professional and legal responsibilities of church personnel with regard to data protection, confidentiality and the exchange of information.

WHAT IS MEANT BY INFORMATION SHARING?

All information regarding child safeguarding suspicions, concerns, knowledge or allegations which meet the threshold for reporting should be shared with the statutory authorities, in the interest of the child. The provision of information to the statutory authorities for the protection of a child is not a breach of confidentiality or data protection, and failure to share this information with the statutory authorities is potentially an offence in law. The importance of confidentiality should be accepted by all working in the Church of Ireland and should be discussed at induction and form part of training given to church personnel.

It is important that everyone is clear about their legal and ethical responsibilities relating to the sharing of information, in good faith with the statutory authorities. Civil law is clear that no undertakings regarding confidentiality can ever be given when child safeguarding suspicions, concerns, knowledge or allegations are made. Interagency cooperation is as important at all stages of child protection work, and information sharing with third parties outside statutory bodies is governed by the Data Protection Acts 2018 in both Northern Ireland and the Republic of Ireland.

SITUATIONS WHEN INFORMATION MUST BE SHARED

Sharing information with the statutory authorities – All child safeguarding suspicions, concerns, knowledge or allegations that meet the threshold for reporting must be passed to the statutory authorities in accordance with the reporting procedures outlined in **Guidance 2.1A**.

Sharing information with statutory authorities for child protection purposes, and in particular to assist investigation of potential offences, is permitted under the Data Protection Acts. Additionally, the Protection for Persons Reporting Child Abuse Act 1998 (ROI) affords protection from civil liability to such persons reporting child protection concerns to statutory authority agencies in good faith.

SITUATIONS WHEN INFORMATION CAN BE SHARED

As part of an investigation by the statutory authorities – During the course of an investigation, if PSNI/An Garda Síochána request information from a file, every effort should be made to cooperate. However, careful consideration should be given to sharing the following without consent:

- Legal advice obtained by the Bishop may be privileged and may not be shared without the consent of the Bishop;
- Assessment reports may require the permission of the author and the respondent.



Sharing information with statutory agencies attracts the protections cited above only insofar as it relates to child protection. Therefore, if the information goes beyond this area, it will not benefit from these exceptions. Case files are stored in the name of the respondent and may hold other information, for example information about third parties, or child safeguarding suspicions, concerns, knowledge or allegations relating to other complainants outside the subject of the statutory investigation.

SHARING INFORMATION WITH THE RCB

The RCB, as a data processor to parishes, dioceses and relevant Church organisations, is entitled to access certain data and records for the purposes of analysing all such data in terms of compliance with best child protection practice in the following ways:

- Notification of child safeguarding suspicion, concern, knowledge or allegation information – using the forms outlined in **Guidance 2.1A**, and as set out in the data processing agreement signed by the Diocese.
- Requests for advice from the RCB Safeguarding Casework Team requires the exchange of information with the RCB.
- Advice sought from the Case Management Committee requires information to be exchanged as determined by the Diocese but without identifying information as outlined in a data processing agreement signed by the Diocese.

SHARING INFORMATION BETWEEN DIFFERENT PARTS OF THE CHURCH

There may be occasions when sharing information relating to a child safeguarding suspicion, concern, knowledge or allegation against a member of the clergy between different parts of the Church is required. Permission to officiate can only be granted by a bishop and while not automatic, there may be occasions where it is appropriate that information is shared between dioceses so that the Bishop can determine whether or not to grant permission to officiate.

A member of the clergy ministering in another parish or diocese against whom a child safeguarding suspicion, concern, knowledge or allegation has been made may need to be suspended from ministry; in such circumstances information about the allegation may need to be shared between dioceses. As each of these situations is unique, the decision whether and what to share with another parish or diocese will be on a case-by-case basis.

In the first instance, if possible, consent should be sought from the data subject to share the information. If this consent is not forthcoming or is not possible to obtain, a decision should be taken about the legal basis for sharing the information. To assist, a privacy impact assessment should be conducted on each occasion where it is determined that information should be shared, by considering the following questions:

- Does the recipient have a lawful basis for receiving this information?
- What is the justification for sharing information?
- How will the information be shared?
- Is the sharing of the information necessary and proportionate for the purpose(s) for which it is being shared?



- What are the risks of harm to an identified or unidentified child if such information is not shared?
- What are the risks to the rights and freedoms of the respondent if the information is shared?
- Can permission be obtained from the respondent to share information?
- Should the respondent be informed that the information is being shared?
- Is the respondent in public lay or ordained ministry or have permission to officiate from a bishop?
- Should information about the complainant be redacted?

LEGISLATION, GUIDANCE AND CASE LAW

This approach is underpinned by the following:

LEGISLATION

Data Protection

The principles of the relevant data protection legislation should be taken into account when considering whether to share information with persons other than the civil authority agencies.

Republic of Ireland

- **Data Protection Acts 2018 (ROI) and Regulation (EU) 2016/679 (General Data Protection Regulation)** – Sharing personal data is a form of ‘processing’ within the meaning of the data protection legislation. Article 6(1) of the GDPR states that processing shall be lawful only if and to the extent that at least one of the following lawful bases applies:
 - (a) the data subject has given consent to the processing of his or her personal data for one or more specified purposes;
 - (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
 - (c) processing is necessary for compliance with a legal obligation to which the controller is subject;
 - (d) processing is necessary in order to protect the vital interests of the data subject or of another natural person;
 - (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
 - (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.



The circumstances in which special categories of personal data (which include personal data revealing a person's religious or philosophical beliefs, data concerning health or data concerning a person's sex life) may be processed are more limited than those outlined above. Such circumstances include where the data subject has consented or where the processing is necessary for the establishment, exercise or defence of legal claims. Another circumstance is where processing is carried out by a not-for-profit body with a religious aim in the course of its legitimate activities, on condition that the processing relates solely to the body's members, former members or persons who have regular contact with the body, and the personal data is not disclosed outside the body without the consent of the data subjects.

Parishes, dioceses and other relevant Church organisations should determine whether there is a lawful basis, in line with GDPR and the Data Protection Act 2018, to disclose the information to a third party.

- **Children First Act 2015** – Section 17 of the Children First Act 2015 effectively prevents the disclosure of details of child sexual abuse against a member of a Church body to a third party. In circumstances where details of a child sexual abuse allegation have been made known to the relevant diocese or parish by Tusla, explicit permission of Tusla to share that information must be obtained.
- **Protection of Persons Reporting Abuse Act 1998** – This affords protection from civil liability to persons, who report allegations of child abuse in good faith to an 'appropriate person', namely the designated officer of Tusla or a member of An Garda Síochána, thereby exempting them from liability for defamation as a result of such reportage.

Northern Ireland

- **Data Protection Act 2018 (UK, including Northern Ireland)** – The Data Protection Act 2018 replaces the 1998 Data Protection Act (UK and Northern Ireland) and follows the same obligations as the Data Protection Act 2018 (ROI). The requirement to conduct a privacy impact assessment prior to sharing information with a third party (non-statutory) applies in Northern Ireland, using the same format as detailed above.
- **Safeguarding Board for Northern Ireland (SBNI): Information Sharing Agreement for Safeguarding Children (Draft) (June 2015)** – This agreement establishes clarity on procedures for the lawful, secure and effective exchange of relevant information between all partners, recognising that it is only when relevant information from a number of sources is put together that it becomes clear that a child is at risk, or is suffering significant harm, or is in need of support.



GUIDANCE

Republic of Ireland

In the Republic of Ireland the Children First Guidance references Information Sharing with a Third Party on page 47, but this relates to Tusla sharing information with third parties, usually family and relevant others. Chapter 3 refers to the responsibilities in relation to mandated assisting and the requirements on mandated persons to engage with Tusla's social work team to assist in the protection of a child. Tusla advise that a mandated assistor must not share information with a third party unless Tusla considers it appropriate and authorises in writing that the information may be shared.

Northern Ireland

There is statutory guidance on interagency cooperation in both jurisdictions on the island of Ireland. In Northern Ireland this is Co-operating to Safeguard Children and Young People in Northern Ireland. In the Republic of Ireland the relevant guidance is Children First: National Guidance for the Protection and Welfare of Children 2017. At Section 8.1 on Interagency Collaboration, the Northern Ireland guidance document states that: 'Effective safeguarding requires strong multiagency collaboration, underpinned by effective communication and information sharing. All professionals, volunteers and agencies involved in child safeguarding must have an understanding of each other's roles, duties, powers, responsibilities and values. They must work collaboratively on an interagency basis, and make best use of resources appropriately, in the best interests of children, young people and their families' (page 72).