

## **Appendix 10: Confidentiality and Data Protection**

### **Confidentiality**

Although information relating to domestic abuse may be given in confidence, it should be made clear from the outset, to the person providing the information, that in certain situations such information may be passed to a third party, (e.g. the police).

If domestic abuse information has been received in confidence, the provider of the information should be encouraged, in the first instance, to disclose it to the relevant authorities him or herself or alternatively, consent should be sought to make a disclosure. Seeking consent or encouraging a person to make a disclosure should always be the first option but there may be circumstances where consent is refused or cannot otherwise be obtained or is just inappropriate because it places a person at increased risk or might prejudice an ongoing investigation. In such cases, a recipient of the information may still be able to share the information without consent if it can be justified in the public interest. Such a public interest can arise in a wide number of situations, for instance, to protect a person, notably a child, from significant harm or prevent, help detect or prosecute a criminal offence.

The key factors in deciding whether to share confidential information without consent are necessity and proportionality, i.e. whether the proposed sharing is likely to make an effective contribution to preventing any risk and whether the public interest in sharing the information overrides the confidentiality.

In making the decision, a person should weigh up what are the risks if the information is shared against what are the risks if it is not shared and decide based on his or her professional judgement. If in doubt, advice should be sought. It may be necessary to make a disclosure without consent, for example, when a disclosure would be likely to assist in the prevention, detection or prosecution of a serious crime, especially a crime of violence. When a victim of domestic abuse refuses to contact the police, disclosure will be justified if children remain at risk.

### **Data Protection**

Sensitive personal data includes information which relates to a person's physical or mental health, sexual life or to the commission or alleged commission of an offence. The use of such information, including disclosure to third parties, without the explicit consent of the data subject, (i.e. the individual to whom the information relates), is restricted by law. Nevertheless, there are certain instances, under data protection legislation, where such information can be shared without a data subject's consent provided that it is necessary and proportionate in order to:

- avoid obstructing an investigation or enquiry;
- avoid prejudicing the prevention, detection, investigation or prosecution of criminal offences or the execution of criminal penalties;
- protect public security;
- protect the rights and freedoms of others.

If you are unsure whether or not you can disclose personal and/or confidential information to a relevant third party, you should take advice.

### **Storage of Confidential Records**

All confidential records, whether or not they contain personal data, should be stored safely and securely.