

## Knowledge of, and ability to work with, issues of confidentiality and consent

All professional codes relating to confidentiality make it clear that where there is evidence of imminent risk of serious harm to self or others, confidentiality can be breached and relevant professionals and family members/significant others informed.

This applies both to individuals who are at risk of suicide or self-harm.

Decisions about issues of confidentiality and consent may be influenced by judgments regarding the individual's capacity. Capacity is referred to in this section but is considered in more detail in the relevant section of this framework.

### Knowledge of policies and legislation

An ability to draw on knowledge of local and national policies of confidentiality and information sharing, both within and between teams or agencies

An ability to draw on knowledge of the application of relevant legislation relating to legal capacity

### Knowledge of legal definitions of consent to an intervention

An ability to draw on knowledge that valid legal consent to an intervention is composed of three elements:

the person being invited to give consent must be capable of consenting (legally competent)

the consent must be freely given

the person consenting must be suitably informed

An ability to draw on knowledge that individuals have a right to withdraw or limit consent at any time

### Knowledge of capacity\*

An ability to draw on knowledge relevant to the capacity of individuals to give consent to an intervention, including:

that young people over the age of 16 are presumed to have capacity to give or withhold consent, unless there is evidence to the contrary

that a child under the age of 16, who can understand and make their own decisions, is able to give or refuse consent

that the capacity to give consent is a 'functional test' and is not dependent on age, and:

that a child with sufficient capacity and intelligence to understand the nature and consequences of what is proposed is deemed competent to give consent

\* Competences relevant to the assessment of capacity can be found in the relevant section of this framework.

### **Knowledge of parental rights and responsibilities**

An ability to draw on knowledge that if a child is judged to be unable to consent to an intervention, consent should be sought from a carer with parental rights and responsibilities, and:

an ability to seek legal advice about specific circumstances when consent can be accepted from a person with care or control of the child who does not have parental rights or responsibilities

### **Ability to gain informed consent to an intervention from individuals and their significant others**

An ability to give individuals the information they need to decide whether to proceed with an intervention, e.g.:

what the intervention involves

the potential benefits and risks of the proposed intervention

what alternatives are available to them

An ability to use an interpreter where the individual's first language is not that used by the practitioner and their language skills indicate that this is necessary

Where users of services have a disability, an ability to ensure that information is provided in an accessible form (e.g. using an interpreter for people with a hearing impairment)

An ability to invite and to actively respond to questions regarding the proposed intervention

An ability to address any concerns or fears regarding the proposed intervention

An ability to draw on knowledge that, even where consent has been granted, it is usual to revisit this issue when introducing specific aspects of an assessment or intervention

### **Ability to draw on knowledge of confidentiality**

An ability to draw on knowledge that a duty of confidentiality is owed to:

the individual to whom the information relates

any individuals who have provided relevant information on the understanding it is to be kept confidential

An ability to draw on knowledge that confidence is breached if the sharing of confidential information is not authorised by the individuals who provided it or to whom it relates

An ability to draw on knowledge that there is no breach of confidence if:

information was provided on the understanding that it would be shared with a limited range of people or for limited purposes, and information has been shared in accordance with that understanding

there is explicit consent to the sharing

### **Sharing information to maintain safety**

An ability to draw on knowledge that it is appropriate to breach confidentiality when withholding information could:

place an individual or others (e.g. family members, significant others, professionals or a third party) at risk of significant harm

prejudice the prevention, detection or prosecution of a serious crime

lead to an unjustified delay in making enquiries about allegations of significant harm to others

An ability to judge when it is in the best interest of the person to disclose information, taking into account their wishes and views about sharing information, holding in mind:
that disclosure is appropriate if it prevents serious harm to a person who lacks capacity
the immediacy of any risk of suicide or self-harm (e.g. the degree of planning; the suicide method that has been planned or already attempted; circumstances such as being alone, refusing treatment, drinking heavily or being under the influence of drugs)

An ability to draw on knowledge that the duty of confidentiality does not preclude listening to the views of family members/significant others, or providing them with non-person-specific information about managing a crisis or seeking support
An ability to judge when sharing information within and between agencies can help to manage suicide risk
An ability to discuss concerns about disclosure with colleagues (e.g. by discussing the case without revealing the person's identity)

**Ability to inform all relevant parties about issues of confidentiality and information sharing**

An ability to explain to all relevant parties (e.g. users of services, significant others and other professionals) the limits of confidentiality and circumstances in which it may be breached (e.g. when an individual is considered to be at risk)
An ability to inform all relevant parties about local service policy on how information will be shared, and to seek their consent to these procedures (e.g. the ways information about the assessment and intervention will be shared with referrers)
An ability to revisit consent to share information if:
there is significant change in the way the information is to be used
there is a change in the relationship between the agency and the individual
there is a need for a referral to another agency who may provide further assessment or intervention
An ability to draw on knowledge that safeguarding needs usually take precedence over issues of consent and confidentiality

**Ability to assess the capacity to consent to information sharing\***

An ability to gauge the individual's capacity to give consent, by assessing whether they:
have a reasonable understanding of what information might be shared, the main reason(s) for sharing it and the implications of sharing or not sharing the information
understand and can consider the alternative courses of action open to them
express a clear personal view on the matter (not repeating what someone else thinks they should do)
are reasonably consistent in their view on the matter (i.e. are not changing their mind frequently)

\* Competences relevant to the assessment of capacity are detailed elsewhere in the relevant section of this framework.

**Ability to share information appropriately and securely**

An ability to ensure that when decisions are made to share information, the practitioner draws on knowledge of information sharing and guidance at national and local level, and:
shares it only with the person or people who need to know
ensures that it is necessary for the purposes for which it is being shared
checks that it is accurate and up to date
distinguishes fact from opinion
understand the limits of any consent given (especially if the information has been provided by a third party)
establishes whether the recipient intends to pass the information on to other people, and ensures that the recipient understands the limits of any consent that has been given
ensures that the person to whom the information relates (or the person who provided the information) is informed that information is being shared, where it is safe to do so
An ability to ensure that information is shared in a secure way that is in line with relevant local and national policies