

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 practitioners and family members and carers informed. This applies both to people who are at risk of self-harm or suicide.

Decisions about issues of confidentiality and consent may be influenced by judgements regarding a person's capacity. Capacity is referred to in this document, but it is discussed 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 on 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 a person has a right to withdraw or limit consent at any time

Knowledge of capacity*

An ability to draw on knowledge relevant to capacity to give consent to an intervention:

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

that a child under 16, who is able to 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

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 are detailed elsewhere 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 parent or carer with parental rights and responsibilities

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

Ability to gain informed consent to an intervention

An ability to give a person the information they need to decide whether to proceed with an intervention, such as:

what the intervention involves

the potential benefits and risks of the intervention

what alternatives are available to them

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

If a person has a disability, an ability to ensure that information is provided in an accessible form (e.g. using an interpreter for people with hearing impairments)

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

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

An ability to draw on knowledge that even when 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 person to whom the information relates

anyone who has provided relevant information on the understanding it is to be kept confidential

An ability to draw on knowledge that confidence is breached when the sharing of confidential information is not authorised by the person 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 of information

Sharing information to maintain safety

An ability to draw on knowledge that it is appropriate to breach confidentiality when withholding information could:	
	place a person or others (e.g. family members, carers, 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 interests 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 self-harm or suicide (e.g. the degree of planning, the type of suicide method planned or already attempted, circumstances such as being alone, refusing treatment, or 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/carers or providing them with general 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 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. a person, their family or carers and other professionals) the limits of confidentiality and circumstances in which it may be breached (e.g. when the person 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
	a change in the relationship between the agency and the person
	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 a person'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
appreciate and can consider the alternative courses of action open to them
express a clear personal view on the matter (as distinct from 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

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