

# TASIS



THE AMERICAN SCHOOL IN ENGLAND

## Confidentiality and Information Sharing Policy

The current version of any policy, procedure, protocol or guideline is the version held on the TASIS website. It is the responsibility of all staff to ensure that they are following the current version.

### Document

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**1. Introduction**

- 1.1. This policy applies to the whole school including the Early Years Foundation Stage (EYFS) and boarding and is publicly available on the School website and on request a copy may be obtained from the School Office.
- 1.2. Legal Context:
  - a. Complies with applicable Data Protection legislation, including the Data Protection Act 2018, the UK's implementation of the EU General Data Protection Regulation (GDPR)
  - b. HM Government – Information Sharing advice for practitioners (2015)
  - c. Keeping Children Safe in Education – KCSIE (September 2018)
  - d. Working together to Safeguard Children (2018)
  - e. Human Rights Act 1998 – Article 8 European Convention on Human Rights
- 1.3. Applies to all:
  - a. activities undertaken by the School inclusive of those outside of usual school hours and away from the School site;
  - b. who work, volunteer or supply services to the School - that is all staff (teaching, boarding and support staff) students on placement and the Proprietary Board of Directors.
- 1.4. Related Documents:
  - a. Safeguarding Policy and Procedures including Child Protection.
  - b. e-Safety Policy including Cyber-Bullying and Acceptable Use, including Mobile Phone and Camera Policy.
  - c. Data Protection Policy
  - d. Sex and Relationships Policy.
  - e. Boarding Handbooks.
  - f. Information Sharing leaflets
  - g. 'Concerns' form for non-IT users
- 1.5. Aims and Objectives:
  - a. This policy provides guidance on the Schools confidentiality and information sharing procedures for staff, students, parents/carers and Proprietary Board Members.
- 1.6. This policy is available on the School website and is subject to regular review and updates when necessary or when there is a change in the law or statutory guidance.

**2. Rationale – we believe that:**

- 2.1. The safety, well-being and protection of our students are the paramount consideration in all decisions members of staff make about confidentiality. The appropriate sharing of information between school staff members is an essential element in ensuring our students wellbeing and safety.
- 2.2. It is an essential part of the School ethos that trust is established to enable students, staff and parents/carers to seek help, both within and outside the School and minimise the number of situations when personal information is shared to ensure students and staff are supported and safe.
- 2.3. Students, parents/carers and members of staff need to know the boundaries of confidentiality that can be offered by staff in order for students to feel safe and comfortable in discussing personal issues and concerns, including sex and relationships.

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- 2.4. All staff should be able to trust the boundaries of confidentiality operating within the School, as defined in this policy.
- 2.5. Everyone in the School community needs to know that no one can offer absolute confidentiality to a student if there may be child protection concerns.
- 2.6. This is so that students can make informed decisions about the most appropriate person to talk to about any health, sex and relationship, or other personal issue they want to discuss.

### 3. Confidentiality Definition

- 3.1. For the purpose of this policy, confidentiality is defined as:

*"something which is spoken or given in confidence; private, entrusted with another's secret affairs".*

- 3.2. In practice, there are few situations where absolute confidentiality is offered within the School. A balance is made between ensuring the safety, wellbeing and protection of our students and staff, ensuring there is an ethos of trust where students and staff can ask for help when they need it and ensuring that when it is essential to share personal information, child protection procedures and good practice are followed.
- 3.3. This means that in most cases what is on offer is 'limited' confidentiality. Disclosure of the content of a conversation could be discussed with professional colleagues but the confider would only be identified in certain circumstances. Staff should make it clear that there are limits to confidentiality at the beginning of the conversation.
- 3.4. The student will be informed when a confidence has to be shared for the reasons of safeguarding their welfare or the welfare of others. Students will be encouraged to do this for themselves if it is deemed appropriate and possible but staff should be clear with students that they will still need to share certain types of information in order to safeguard the students wellbeing.

### 4. Moral and Values Framework

- 4.1. The Confidentiality Policy at TASIS England reflects the School ethos and demonstrates and encourages the following values:
  - a. Respect for self.
  - b. Respect for others.
  - c. Responsibility for their own actions.
  - d. Responsibility for their family, friends, Schools and wider community.

### 5. Policy Statement

- 5.1. The school operates in a way that respects every individual and family's right to privacy. All our staff and visitors are therefore expected to work within the guidelines of this policy which conforms to recent legislation and government guidelines and which protect confidentiality. In practice this means:
  - a. making it clear that 'gossiping' or idle chatter is discouraged;
  - b. keeping personal records of behaviour confidential;
  - c. not discussing student or family personal matters in a general way;
  - d. using teaching methods which protect confidentiality;
  - e. always encouraging students to talk to their parents or carers about any anxieties they may have, while at the same time offering support for individuals and families from staff specialising in pastoral care.

### 6. Personal Disclosures

TASIS is committed to safeguarding and promoting the welfare of students and expects all staff and volunteers to share this commitment. It is our aim that all students fulfil their potential.

- 6.1. Students will be made aware that some information cannot be held confidentially and made to understand that if certain disclosures are made, staff will need to take certain action to discuss the information with certain people such as the Designated Safeguarding Lead(s), the Head of School and/or their line manager
- 6.2. If this occurs students will be offered sensitive and appropriate support. Procedures outlined in the School's Safeguarding Child Protection Policy will be adhered to by all adults upon the occasion of disclosure by a child or where there may be any suspicion of possible abuse.

## **7. Confidentiality in the Classroom**

- 7.1. All teaching will be done in a way that reaffirms respect for everyone in, and associated with, the School.
- 7.2. The following strategies for maintaining confidentiality in a class or group situation will be used in the School:
  - a. **Setting ground rules.** Teaching and boarding staff will work with students to develop 'ground rules' for lessons and discussions to show why these rules need to be agreed and respected by everybody. For example:
    - (i) neither staff nor students have to answer personal questions or disclose any personal details;
    - (ii) everyone has the right to 'pass' on a question if they want to;
    - (iii) no-one will be forced to take part in a discussion;
    - (iv) everyone has the right to be listened to and have their views respected;
    - (v) no teasing or bullying of any kind;
    - (vi) if you don't want anyone to know something, talk about it as though it was someone else.
  - b. **Depersonalising.** Staff will protect students privacy by always depersonalising discussions. Students can then explore the issues being raised without having their personal lives or those of their families implicated or invaded and 'used' inappropriately by other students. For example:
    - (i) use the third person to allow students to keep a distance ('If you were Jamie/Sara what would you do?' rather than 'What would you do?');
    - (ii) collect answers anonymously on pieces of paper so that students can express their feelings without risking exposure;
    - (iii) collect group ideas without identifying individuals.
- 7.3. Staff must remain aware of their terms of contract and that they cannot promise children absolute confidentiality.

## **8. Maintaining confidentiality in a classroom**

- 8.1. Other professionals may need some support in working with groups in a way that protects confidentiality. In a one-to-one setting, it is good practice for other professionals to talk to a child or young person directly, to make sure their concerns are clear, identified, and that they understand the advice they are given. In a classroom setting it is not appropriate to talk directly to individuals about their personal experiences.

## **9. One to one disclosures to members of school staff (including boarding and voluntary staff)**

- 9.1. It is essential that all members of staff know the limits of the confidentiality they can offer to both students and parents/carers (see point 10.3 below) and any required actions and sources of further support or help available both for the student or parent/carer and for the staff member within the School and from other agencies, where appropriate.
- 9.2. All staff at the School encourage students to discuss difficult issues with their parents or carers (and parents with their children). However, the needs of the student are paramount and school staff will not automatically share information about the student with his/her parents/carers unless it is considered to be in the best interests of the student.

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- 9.3. When concerns for a child or young person come to the attention of staff, for example through observation of behaviour or injuries or disclosure, however insignificant this might appear to be, the member of staff should discuss this with the Designated Safeguarding Lead as soon as possible; this can be in person, by email, via the Child Protection Online Management system (CPOMS) OR telephone. Serious concerns must be reported immediately to ensure that any intervention necessary to protect the student is instigated as early as possible. Also please refer to the School Safeguarding - Child Protection Policy.

#### **10. Disclosures to a counsellor, school nurse or health professional operating a confidential service in the School**

- 10.1. Health professionals such as school nurses can give confidential medical advice to students provided they are competent and qualified to do so and follow the Fraser Guidelines (guidelines for doctors and other health professionals on giving medical advice to under 16s) and Gillick Competency guidelines (whether a child (under 16 years of age) is able to consent to his or her own medical treatment, without the need for parental permission or knowledge).
- 10.2. School nurses are skilled in discussing issues and possible actions with young people and always have in mind the need to encourage students to discuss issues with their parents or carers. However, the needs of the students are paramount and the School nurse will not insist that a student's parents or carers are informed about any advice or treatment they give unless it is deemed to be in the best interests of the student.

#### **11. Contraceptive advice and pregnancy**

- 11.1. The Department of Health has issued guidance (July 2004) which clarifies and confirms that health professionals owe the same duty of care and confidentiality to young people under 16 as they do to older patients. It sets out principles of good practice in providing contraception and sexual health advice to under-16s. The duty of care and confidentiality applies to all under-16s.
- 11.2. Whether a young person is competent to consent to treatment or is in serious danger is judged by the health professional on the circumstances of each individual case, not solely on the age of the patient. However, the younger the patient the greater the concern that they may be at risk of, or are, being abused or exploited.
- 11.3. The Guidance makes it clear that health professionals must make time to explore whether there may be coercion or abuse involved. Cases of grave concern would be referred through Safeguarding and Child Protection procedures. For more information on this refer to the government guidance, 'Working Together to Safeguard Children' 2018 and 'Keeping Children Safe in Education' September 2018.

#### **12. The Legal Position for School Staff**

- 12.1. TASIS England staff (including non-teaching and voluntary staff) should never promise confidentiality.
- 12.2. Students do not have the right to expect that incidents will not be reported to his/her parents/carers and may not, in the absence of an explicit promise, assume that information conveyed outside that context is private.
- 12.3. No member of school staff can or should give such a promise. The safety, well-being and protection of the child is the paramount consideration in all decisions school staff make about confidentiality.
- 12.4. School staff are NOT obliged to break confidentiality except where Child Protection is or may be an issue, however, we believe it is important that staff are able to share their concerns about students with colleagues in a professional and supportive way, on a need to know basis, to ensure staff receive the guidance and support they need and that students safety and well-being is maintained. School staff should discuss such concerns with their line manager or the DSL.

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**13. Teachers, Counsellor, Health Professionals or Boarding Staff**

- 13.1. Teachers, counsellors, health professionals or boarding staff members should never indicate to a child that the child could make a disclosure in confidence as such a confidence may not be possible once the disclosure has been made.
- 13.2. Teachers, counsellors, health professionals or boarding staff members must always consider the best interests of the child including the need to provide safeguards for the child and any ensuing possible Child Protection concerns.
- 13.3. All teachers, counsellors, health professionals or boarding staff at the School receive training in Safeguarding & Child Protection as part of their ongoing professional development and are expected to follow the Schools Safeguarding & Child Protection Policy and Procedures.

**14. Visitors and Non-Teaching Staff**

- 14.1. We expect all non-teaching staff, including voluntary staff to report any disclosures by students or parents/carers, of a concerning personal nature to the Designated Safeguarding Lead as soon as possible after the disclosure
- 14.2. Staff will need to ensure that this is undertaken in an appropriately private setting, so that any discussion cannot be overheard.
- 14.3. This is to ensure the safety, protection and well-being of all our students and staff. The DSL will decide what, if any, further action needs to be taken, both to ensure the student gets the help and support they need and that the member of staff also gets the support and supervision they need.
- 14.4. Reporting a Safeguarding issue can be done through CPOMS, telephone, email or in person

**15. Disclosures to The Police**

- 15.1. Staff should be aware that delays in the processing of information could have a detrimental effect on a student or risk causing a student significant harm.
- 15.2. Accordingly, police requests, in the course of an investigation, for information regarding a student will be honoured. If circumstances permit, and with the agreement of a senior manager, the student may be advised of the police request in advance of the disclosure of the information.
- 15.3. In the interests of confidentiality, disclosures to the police should be limited to the minimum required and should be processed through the School's Human Resources Department or the Head of School.

**16. Discharge from Hospital**

- 16.1. Hospital staff can be expected to contact general practitioners about students discharged from the emergency department or inpatient wards with significant medical problems.
- 16.2. Doctors, together with school nurses, will be able to undertake continuing responsibility and will be fully aware of the consequences for Schools.
- 16.3. Students will often be willing for hospital staff and doctors to speak directly to Senior Managers at the School and it is helpful if those responsible for student welfare have discussed issues and procedures with their local GP and school nurse beforehand.

**17. Risk of Self-Harm**

- 17.1. If it appears that a student is at risk of self-harm, concerns should be reported to a Designated Safeguarding Lead.
- 17.2. It is often sensible to discuss these concerns directly with the student. The School Nurse or boarding staff should be consulted. Even when the nurse or boarding support are unable to comment about a particular case for reasons of confidentiality, it can be useful to discuss general issues.

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- 17.3. Since self-harming activity can vary in its level of immediate danger, discussion with a professional is important to assess what action is needed. Where there are clear indications that the student is in imminent and serious danger, 999 emergency services should be contacted. The Designated Safeguarding Lead should be consulted as quickly as possible as should the Divisional Manager and the Head of School.

#### **18. Serious crime**

- 18.1. Victims of serious crime, including sexual crime may fear reporting the matter to the police.
- 18.2. Advice should be sought via the Designated Safeguarding Lead on how to support victims in such circumstances and on the details of confidential referral routes.

#### **19. Dealing with the media**

- 19.1. No member of staff should speak to the Media unless they have specific instructions to do so from the Head of School.
- 19.2. All Media enquiries should be referred in the first instance to the Head of School.

#### **20. Professional Codes of Conduct**

- 20.1. Whereas staff are bound by their terms of contract and cannot promise students absolute confidentiality, other professionals – when working with individual students – are bound by their professional codes of conduct which tend to give students the right to confidentiality and it would be unreasonable to expect a professional to act outside his/her professional code within a school setting.
- 20.2. Confidentiality, in these situations, should only be breached in exceptional cases and not without first informing the child. In a classroom or boarding situation, including small group work, all Schools policies and procedures apply to staff and other professionals alike.

#### **21. Parents and Carers**

- 21.1. It is essential to work in partnership with parents and carers, and the School endeavours to keep parents/carers informed of their child's progress at school, including any concerns about their progress or behaviour.
- 21.2. However, there also needs to be a balance so that students can share any concerns and ask for help when they need it.
- 21.3. Where a student raises a difficult personal matter with a member of staff at the School, they will be encouraged also to discuss the matter with their parents or carers.
- 21.4. Parents and carers need to be aware that the School can never offer complete confidentiality if there is a chance that a child is at risk of harm.

#### **22. Procedures for When Confidentiality Should be Broken**

- 22.1. In the first instance staff should refer to the Safeguarding & Child Protection Policy.
- 22.2. Where this does not apply and you are still concerned and unsure of whether the information should be passed on or some other action should be taken you should speak to a Designated Safeguarding Lead .
- 22.3. If the Head of School issues instructions that they should be kept informed, all staff must comply. There is always a reason for this which may not be obvious.

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- 22.4. The principles we follow at our school are that in all cases we:
- a. Ensure the time and place are appropriate. If they are not, reassure the student that you understand they need to discuss something very important and that it warrants time, space and privacy.
  - b. See the student usually (and always in cases of suspected neglect or abuse) before the end of the School day. Serious concerns must be reported immediately to Surrey Children's Services to ensure that any intervention necessary to protect the student is instigated as early as possible.
  - c. Explain (i & ii below) to the student that confidentiality cannot be guaranteed for the following reasons:
    - (i) it may place them at risk of harm from themselves or someone else;
    - (ii) it may place someone else at risk of harm;
  - d. Do not interrogate the student or ask leading questions.
  - e. Try not to put students in the position of having to repeat distressing matters to several people.
  - f. Always try to inform the student first why you may not be able to keep confidential information to yourself before any confidential information is shared.
  - g. Encourage the student, whenever possible to confide in his/her own parents/carers if possible and appropriate to do so.

### **23. Record Keeping**

- 23.1. All records involving confidential disclosures are securely stored in CPOMS.
- 23.2. If they are stored in the students file and are of a sensitive nature, then they are kept in a sealed envelope with a signature over the seal.
- 23.3. Any disclosures which may involve Safeguarding and/or Child Protection issues are securely stored in an electronic record on CPOMS which is accessible by the Designated Safeguarding Leads and the Head of School.
- 23.4. All staff receive training in Safeguarding & Child Protection as part of their ongoing role at the School and are expected to follow the Schools Safeguarding & Child Protection Policy and Procedures.
- 23.5. If asked, staff must be able to explain to the student and, if appropriate, any adult with parental responsibility:
- a. the purpose for which the information is being recorded
  - b. where and for how long the record will be kept
  - c. the circumstances in which it may be shared with other people
  - d. any other people and agencies who may have or may be given access to the information.
- 23.6. Records are kept for the duration permissible under the TASIS Records Retention Policy.

### **24. Data Protection**

- 24.1. Confidentiality does not just relate to disclosures of information which could have legal implications such as abuse. All Personal Data must be managed in accordance with the School's Data Protection Policy
- 24.2. Staff members should not handle any confidential information carelessly, as students and other members of staff may regard this as usual practice and respond in a similar way if a confidence is passed to them.
- 24.3. The following measures are in place to ensure confidential information is dealt with appropriately:
- a. Student records are kept in a locked filing cabinet.
  - b. Students, SEN and Child Protection files are retained in accordance with the Record Retention Policy and then securely destroyed after they have been reviewed by authorised personnel.

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- c. Personal student information is not stored in the staffroom and is not displayed on notice boards, except for health and safety notices about specific allergies etc.
- d. Discussing student, family or other staff members personal matters in a general way is discouraged.

### **25. Equal Opportunities Statement**

- 25.1. Our policy aims to respond to the diversity of students cultures, faiths, gender, race and family backgrounds.
- 25.2. Please see the School website where our published Single Equality Policy can give more detail.

### **26. Information Sharing**

- 26.1. The sharing of information is an integral part of the staff role when working with children. Failure to share the right information could have serious consequences for a student's outcome, fears about sharing information cannot be allowed to obstruct the promoting of children's welfare.
- 26.2. All practitioners should be alert to the signs and symptoms of abuse and neglect and understand the procedures for reporting cases of suspected abuse in line with our Safeguarding Policy. Where there are concerns about the safety of a child, the sharing of information in a timely and effective manner between organisations can reduce the risk of harm.
- 26.3. Every Local Authority has a Local Safeguarding Children Board (LSCB) who play a strong role in supporting information sharing between and within organisations and addressing any barriers to information sharing. This should include ensuring a culture of appropriate information sharing is developed and supported as necessary by multi-agency training. In addition, the LSCB can require an individual or body to comply with a request for information, as outlined in section 14B of the Children's Act 2004.

### **27. Guidance for Staff on the Sharing of Information**

- 27.1. Remember that data protection legislation and human rights law are not barriers to justified information sharing but provide a framework to ensure that personal information about living individuals is shared appropriately.
- 27.2. Be open and honest with the individual (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their agreement, unless it is unsafe or inappropriate to do so.
- 27.3. Seek advice from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
- 27.4. Share with informed consent where appropriate and possible. Respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case. Where you have consent, be mindful that an individual might not expect information to be shared.
- 27.5. Consider safety and well-being: Base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.
- 27.6. Necessary, proportionate, relevant, adequate, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely (see principles at point 28.2 below).
- 27.7. Keep a record of your decision and the reasons for it – whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

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**28. When and How to Share Information**

28.1. When asked to share information, you should consider the following questions to help you decide if and when to share. If the decision is taken to share, you should consider how best to effectively share the information. (See flowchart at Appendix 2 below)

**a. When**

- (i) Is there a clear and legitimate purpose for sharing information?
- (ii) Does the information enable an individual to be identified?
- (iii) Is the information confidential?
- (iv) Do you have consent to share the information?
- (v) Is there another reason to share information such as to fulfil a public function or to protect the vital interests of the information subject?

**b. How to share Information:**

- (i) Is there a clear and legitimate purpose for sharing information?
- (ii) Identify how much information to share
- (iii) Distinguish fact from opinion
- (iv) Ensure that you are giving the right information to the right individual
- (v) Ensure where possible that you are sharing the information securely
- (vi) Inform the individual that the information has been shared if they were not aware of this, as long as this would not create or increase risk of harm

**29. When Sharing Information Without Consent**

29.1. TASIS England staff must always consider the safety and welfare of a child/young person when making decisions on whether to share information about them.

29.2. Where there is concern that the child/young person may be suffering, or is at risk of suffering, significant harm, the child/young person's safety and welfare must be the overriding consideration.

29.3. Staff should, where possible, respect the wishes of children, young people or families who do not consent to share confidential information. However, information may still be shared if, in their judgement on the facts of the case, there is sufficient need to override that lack of consent.

29.4. As children and young people mature they are able to take more responsibility for their own decisions about confidentiality.

29.5. The exception to this is where a learning disability impairs an individual's capacity to consent.

29.6. If a young person is deemed as being 'Gillick competent', or 'Fraser competent' in the case of access to contraception and other health care, their decision may override their parents/carers.

**30. Confidentiality and Information Sharing within the Early Years Foundation Stage**

30.1. To ensure that all those using the School's Early Years Foundation Stage can do so with confidence, we will respect confidentiality in the following ways:

- a. Parents will have ready access to the files and records for their own children but will not have access to information about any other child. We may have to share information without parents' consent if there are any safeguarding issues.
- b. Staff, volunteers and students on placement will be informed of the confidentiality policy on induction and sign a document to confirm this.
- c. Staff, volunteers and students on placement will not discuss individual children other than for purposes of curriculum planning/group management, with people other than parents/carers of that child.

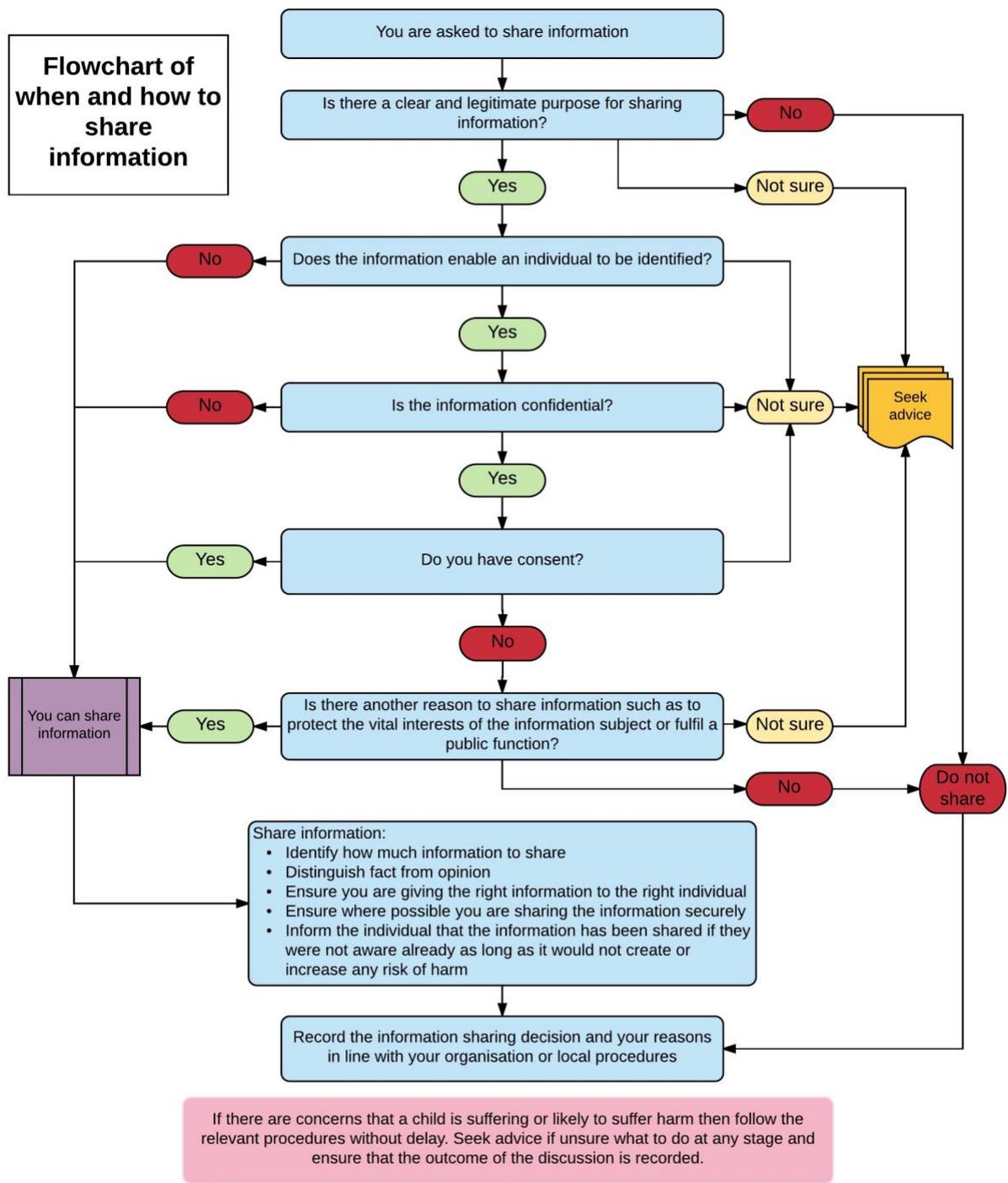
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- d. Information given by parents/carers to the staff will not be passed on to other adults without permission.
- e. Any anxieties/evidence relating to a child's personal safety will be kept in a confidential file and will be shared with appropriate staff. It will only be shared with others when it is felt necessary (safeguarding the child). Including other professionals working with the child and the police, Children's Social Care and Ofsted where appropriate to ensure the needs of the child are met. Only those staff that 'need to know' will be informed. The staff concerned share the responsibility of keeping this information confidential.
- f. Students attending the setting will be advised of our confidentiality policy and will be required to follow the guidelines laid down.

### **31. Dissemination and implementation**

- 31.1. This policy has been distributed to all teaching and non-teaching staff, including volunteers, at the School and is included on the School website and forms part of the School induction and core training offer for new staff.
- 31.2. The School Council has developed a simplified version for students and parents/carers, which forms part of the School prospectus. All new staff, including volunteers, receive a copy of the policy, together with basic training on the Schools Safeguarding & Child Protection Policy and Procedures from the DSL.

**Appendix 1**



Source: Information Sharing (HM Government March 2015)