

Appendix 7: Confidentiality and Data Protection

Confidentiality

If in doubt about whether to disclose information please contact the DSA and Diocesan Registrar for guidance.

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 or not 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 make a decision based on his or her professional judgement, or by seeking advice from the DSA and the Diocesan Registrar. 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. Indeed, when a victim of domestic abuse refuses to contact the police, disclosure will be justified if children remain at risk, for example.

Data Protection

Under the Data Protection Act 1998, 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 1998 Act restricts 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). Nevertheless, there are certain instances, under data protection legislation¹, where such information can be shared without a data subject's consent provided that it is in the substantial public interest, for instance this includes:

- if it is necessary for the purposes of the prevention or detection of any unlawful act; or
- to protect members of the public against dishonesty, malpractice or other seriously improper conduct; or
- it is necessary for the discharge of any function which is designed for the provision of confidential counselling, advice, support or any other service.
- and seeking consent would prejudice the purposes for which the information is sought.

¹ Data Protection (Processing of Sensitive Personal Data) Order 2000

Responding Well to Domestic Abuse Practice Guidance

If you are unsure whether or not you can disclose personal and/or confidential information to a relevant third party you should speak to the DSA and the Diocesan Registrar.

Storage of Confidential Records

All confidential records (whether or not they contain personal data) should be stored safely and securely in line with [Safeguarding Records: Joint Practice Guidance for the Church of England and the Methodist Church \(2015\)](#).².

²<https://www.churchofengland.org/media/2254792/safeguarding%20joint%20practice%20guidance%20-%20safeguarding%20records.pdf>