Guidance for PCC’s

Confidentiality, Information Sharing and Confession
Children and adults who may be vulnerable

In all circumstances where alleged abuse of a child or adult who may be vulnerable has been disclosed or observed, that information should be shared in the first instance with the group leader, incumbent or the Parish Safeguarding Officer. This needs to be done, regardless of whether the child or adult has given consent to the information being shared. The Diocesan Safeguarding Officer should be advised of all concerns and may be consulted at any time in the safeguarding process.

Confidentiality and Information Sharing
The common law provides that where there is a confidential relationship, the person receiving the confidential information is under a duty not to pass on the information to a third party. But the duty is not absolute and information can be shared without breaching the common law duty if:

- the information is not confidential in nature or
- the person to whom the duty is owed has given explicit consent or
- sharing is required by a court order or other legal obligation or
- there is an overriding public interest in disclosure

Consent and Information Sharing : the Public Interest
Where consent cannot be obtained to the sharing of the information or is refused or where seeking it is likely to undermine the prevention, detection or prosecution of a crime, the question of whether there is a sufficient public interest must be judged on the facts of each case. Therefore, where there is a concern about a child or adult who may be vulnerable refusal of consent should not be regarded as necessarily precluding the sharing of confidential information.

Sharing confidential information without consent will normally be justified in the public interest:

- when there is evidence that the child is suffering or is at risk of suffering significant harm or
- where there is reasonable cause to believe that a child may be suffering or is at risk of significant harm or
- to prevent significant harm arising to children and young people or serious harm to adults, including through the prevention, detection and prosecution of serious crime
- where a vulnerable person is judged to be at risk of significant harm or an adult is likely to harm themselves or others

Where there is a clear risk of significant harm to a child or vulnerable adult the public interest test will almost certainly be satisfied.

Proportionality
The key factor in deciding whether or not to share confidential information: is the proposed sharing a proportionate response to the need to protect the public interest in question? The amount of confidential information disclosed and the number of people to whom it is
Guidance for PCC’s disclosed should be no more than is strictly necessary to meet the public interests in protecting the health and wellbeing of a child or adult who may be vulnerable. Weigh up what might happen if the information is shared against what might happen if it is not, and make a decision on a reasonable judgment.

Confession *

It is possible that relevant information may be disclosed in the particular context of confession. It is in everyone’s interest to recognize the distinction between what is heard in formal confession, however this might take place, which is made for the quieting of conscience and intended to lead to absolution, and disclosures made in pastoral situations. For this reason, it is helpful if confessions are normally heard at advertised times or by other arrangement or in some way differentiated from a general pastoral conversation or a meeting for spiritual direction. A stole might be worn and a liturgy should be used.

Canon Law constrains a priest from disclosing details of any crime or offence which is revealed in the course of formal confession; however, there is some doubt as to whether this absolute privilege is consistent with the civil law. Where a penitent’s own behaviour is at issue, the priest should not only urge the person to report it to the police or the local authority children’s social care, if that is appropriate, but may judge it necessary to withhold absolution. In such a case the priest may consider it necessary to alert the bishop to his or her decision in order to safeguard himself or herself and seek advice on the issues, though the penitent’s details would not be shared without their permission. The priest might also judge it appropriate to encourage the penitent to speak personally to the bishop.


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