

# **Working with Children and Adults Who May be at Risk of Self-harm**

## **Practice Guidance on Information Sharing, Protection and Confidentiality**

## INTRODUCTION

In *Towards a Mentally Flourishing Scotland: Policy and Action Plan 2009-11*, the Scottish Government made a commitment to improve knowledge and understanding of self-harm in Scotland and to develop an appropriate response. The Government committed to working with partners to, among other things, offer guidance to those delivering both general and specific services and develop local and national information.

A National Self-Harm Working Group was established in August 2009 to take these tasks forward and to map out the next stage of activity in developing services and health improvement approaches.

*Responding to Self-harm* was developed by the Working Group and agreed by Scottish Ministers for publication in 2011. It can be found at <http://www.scotland.gov.uk/Publications/2011/03/17153551/0>. It is presented as a work plan of objectives and forms the basis for more specific action during the ongoing implementation process. One of the Specific Objectives (SO5) was that guidance should be prepared on information sharing, protection and confidentiality for those working with children and adults at risk where there is concern about self-harm; this guidance fulfils this Objective.

The term self-harm is used in this guidance to refer to any act of self-poisoning or self-injury, irrespective of the apparent purpose of the act. This commonly involves self-poisoning with medication or self-injury by cutting, but can also include biting or burning. There are three important exclusions which this term is not intended to cover: self-harm through substance misuse (alcohol & drug); accidental self-harm; and self-harm related to eating disorders.

It is hoped that those who come into contact with both children and adults who self-harm will find this guidance document both useful and informative. **This document is aimed at a range of staff groups and others, including health, social work, residential care staff; foster carers, kinship carers; teachers and other education staff; police staff, custody staff and prison staff who work with children and adults where there is a concern that they are involved in self-harming behaviours.**

For the purposes of this Guidance ‘child’ means a person under the age of 18 years; and a “young person” means someone up to 24 years old.

## 2. SCOPE AND PURPOSE OF THE GUIDANCE

This guidance is focussed on issues of **confidentiality, information sharing and protection** and is for people working with children and adults where there is a concern about self-harm. The guidance is intended to help people working in this context to be able to work effectively with people who self-harm.

For detailed direction on local arrangements, practitioners should always refer to local policy on self harm, suicide, child protection and adult protection. In addition, recognising the potential impact of this issue on staff, carers and others, this document includes links to other relevant publications and resources.

### **3. CONFIDENTIALITY AND INFORMATION SHARING**

Confidentiality is an important factor in enabling service users to engage confidently and honestly with agencies. Professionals should respect the need for other professionals and agencies to protect their relationship with their primary client and support the requirement to maintain confidentiality as far as possible. The protection of children is paramount. In most cases sharing this information should be based on informed consent by the patient or client. Where it is necessary to obtain informed consent, this should be obtained before sharing information. Obtaining consent is not a 'one off' event but is ongoing as part of the engagement with the client or patient.

Sharing information in a timely, proportionate and accurate way is an essential part of delivering better services to children and adults at risk of self harm. It can help to save lives. Practitioners at different agencies need to work together and share information appropriately for the safety and well-being of children and adults. It is important to understand and respect legislation and ethics surrounding the confidentiality and security of information.

Local agencies should have an agreed local Information Sharing multi-agency guidance. This should recognise the importance of early and effective intervention where there is a concern about any aspect of a child's well-being. It should also be in line with National Guidance for Child Protection and local multi-agency adult protection arrangements, as appropriate. Staff should make themselves aware of the content of the multi-agency guidance and those produced by their own agency.

It is crucial to build trust with the service user and their family from the outset by clarifying issues and procedures surrounding confidentiality, consent and information sharing. Professionals should tell service users about the kinds of situations where they may have to share information. They should give some indication of why, and with whom, they may need to share information and ask in advance for their clients' consent to sharing necessary information. This will save time, misunderstandings and potential conflict later.

#### **Duty of care and confidentiality**

Staff may be under a duty to breach confidentiality to protect someone who might be at risk due to their self-harming behaviour. The law recognises that in certain circumstances the duty of staff to the individual or third person is greater than the duty to respect confidentiality. Staff have a duty to act to protect people so that if a child or adult is at serious risk due to their self-harming behaviour then staff should notify the relevant authorities.

The Scottish Government's National Guidance for Child Protection in Scotland 2010 ([www.scotland.gov.uk/publications/2010/12/09134441/0](http://www.scotland.gov.uk/publications/2010/12/09134441/0)) outlines some of the key principles around information sharing and child protection. If staff are concerned about the welfare of a child or young person due to their self-harming behaviour and/or other co-occurring behaviours then they have a duty to pass on that information, guided by what is justified, necessary and proportionate as a course of action. There are five questions staff need to ask themselves when they are concerned about a child or young person:

- What is getting in the way of this child or young person's wellbeing?
- Do I have all the information I need to help this child or young person?
- What can I do now to help this child or young person?
- What can my agency do to help this child or young person?
- What additional help, if any, may be needed from others?

### **Impact of Human Rights Law and confidentiality**

Human rights law recognises that staff must balance the risks and disadvantages of various courses of action. So, although Article 8 of the European Convention on Human Rights gives people a right to privacy it also allows for interference with that right in the interests of, among other things, the protection of health.

### **Adults lacking capacity and confidentiality**

The law allows for the disclosure of information if there are compelling reasons for doing so. The Adults with Incapacity (Scotland) Act 2000 (the AWI) sets out the law on sharing information about adults with incapacity in certain contexts. Outwith the specific contexts in the AWI Act, these principles may be useful for staff to follow in the case where an adult is unable to consent to the sharing of information.

### **Children and young people and confidentiality**

Everyone, including children and young people, has a right to confidentiality (see Article 8 of the European Convention on Human Rights). The individual level of a child or young person's maturity will affect their ability to express a view or take decisions about issues of confidentiality and sharing information. There is a complex legislative landscape around a child's ability to take decisions, but practitioners should always have regard to a child's right under the United Nations Convention on the Rights of the Child (UNCRC) to express their views freely in all matters affecting them, and to have those views given due weight in accordance with their age and maturity. While a child is growing up, those with parental responsibilities – whether the child's birth parents or others undertaking the parenting role – will require sufficient information to enable them to take certain decisions (for example medical decisions) on the child's behalf, but as the child becomes older, he or she may wish to discuss matters with, for example, a teacher, social worker or health professional on a confidential basis.

Confidentiality becomes a difficult and relevant issue when a young person has a mental illness or learning disability and is self-harming. Any child or young person requiring support, whether from a single universal service or from several agencies, should have a plan to record that support which is co-ordinated by the Named Person and/or Lead Professional. A young person may wish to seek help without involving parents. Staff involved may consider the young person to be at risk and may feel the need to tell the parents. The right to confidentiality for children and young people, and for families, should be respected, while recognising that the duty to safeguard children comes first.

There are no clear cut and easy to follow legal or ethical answers in these circumstances and the judgement of staff will need to come into play. The law and guidance as set out below can only provide a framework for decision making in particular circumstances.

#### Child able to consent and make decisions regarding confidentiality

Staff and carers will generally respect a young person's request to keep information confidential unless there are issues of risk. The child or young person should be at the centre, having their views listened to and being involved in decisions that affect them; there should be an integral role for children, young people and families in assessment planning and intervention. If the child's mental health could be putting him or her at risk then an appropriate person may wish to discuss the options with carers. Staff or carers should not generally breach confidentiality unless they consider this is in the best interests of the child, or if there are wider public protection issues involved, which may affect third parties. When making these kinds of decisions, staff should have regard to the Age of Legal Capacity (Scotland) Act 1991 as well as to the UNCRC.

#### Child unable to consent and make decisions regarding confidentiality

When a young person is unable to take decisions regarding confidentiality, either because of lack of maturity or because of the seriousness of a mental illness or learning disability, then the child's parents or those with parental rights and responsibilities will need to be informed and consulted as necessary to help them to make any decisions on behalf of the child.

A young person who is self-harming may also have a mental disorder, which may render him or her incapable of making decisions regarding confidentiality and the sharing of information, but may still request that the staff involved keep personal information confidential. In the first instance, such staff should try to persuade the young person to allow the sharing of necessary information.

If the young person refuses, the staff involved may disclose the relevant information to an appropriate person, if he or she considers it necessary to do so in the young person's best interests. The child or young person - and their carers - should usually be actively involved, and the Named Person and Lead Professional should always be involved in making the decision; staff should consider involving an independent advocate or counsellor.

### Where parents are carers

Where a child is at risk due to their self-harming behaviours and living at home, staff may have to consider whether parents need any information in order to help them care. A parent or guardian is entitled to information to the extent that he or she needs to perform their parental responsibilities. This approach should be extended to informal carers where there is a need for information to perform their care responsibilities.

### **Advice for staff on confidentiality and information sharing**

Decisions about breaching confidentiality will ultimately be based on judgement and any applicable professional Codes of Conduct. As stated at the beginning of this document there should be local agreements in place for sharing information and all staff are referred to these. Further guidance is also available from professional bodies such as the General Medical Council or the Nursing and Midwifery Council, Scottish Social Services Council and British Association of Social Workers. The Mental Welfare Commission for Scotland can also provide advice around confidential discussions, which can be helpful when dealing with difficult cases or situations.

### **General**

When dealing with child protection or adult protection cases, practitioners should also be alert to the potential impact of the case on family members, whether children or adults.

## **4. PROTECTION AND SUPPORT FOR THOSE WHO SELF-HARM**

### Children and Young People

When children need extra help, they should have a Child's Plan that is coordinated by the Named Person if it is a single agency plan or Lead Professional if two or more agencies need to work together to help the child. The *Getting it right for every child* approach means that the National Practice Model will inform assessment, planning and the action that is to be taken by the partners to the plan. It also supports those involved to monitor the effectiveness of any help given. This can be used in a single- or multi-agency context. It promotes the participation of children and their families in gathering information and making decisions. It combines knowledge, theory and good practice and focuses on improved outcomes for the child in question.

As with any child who requires extra help, those who may be at risk of harm should have a Child's Plan to address their needs and improve their wellbeing. It is likely for this group of children that other agencies will need to

become involved, either to contribute to the assessment or to offer services as part of the Child's Plan. The Named Person or Lead Professional, in consultation with the child, the parent or carer and others involved with the child, will arrange for such help. Further information can be found at <http://www.scotland.gov.uk/Publications/2010/07/19145422/0>.

There may be concerns about the well-being of a young person who self-harms because of the nature of the social circumstances in which they live. For example, (1) a young person – say, caring for a parent with a chronic illness – who self-harms daily by cutting to manage difficult emotions about their circumstances; or (2) because of the frequent and potential lethality of their behaviour, a young person who frequently ties ligatures around their neck and often contemplates taking their own life; or (3) because they live in a household where a parent or guardian is self-harming for whatever reason.

Practitioners who are concerned will need to take all possible circumstances into account during any initial assessment and treatment and decide whether the concerns about the child or young person's well-being warrant involvement of other agencies. In instances where social circumstances are relevant to the self-harming behaviour, or where repeated self-harm is potentially dangerous, or where a parent or guardian is self-harming, a multi-agency action plan will need to be developed. Such plans need to be based on a comprehensive assessment of the young person's health, educational and social needs using the GIRFEC National Practice Model, supplemented by any specialist assessment as appropriate.

In endeavouring to serve the needs of young people with complex needs, care should be taken to ensure that the involvement of one agency does not result in the decrease or even removal of another agency from involvement in any agreed care plan. This is never helpful nor is it consistent with prioritising the needs of the young person. It is important that the Lead Professional addresses this in their role of co-ordinating multi-agency planning and making sure that the different services provide a network of support around the child in a seamless, timely and proportionate way. Staff, child and family need to ensure that they understand each other's roles and responsibilities in supporting a child who self-harms.

Support, treatment and protection can be particularly challenging in the context where a child is at high risk due to the seriousness of their self-harming behaviour and where there is a need to balance their immediate safety with improving longer term outcomes. In such situations a multi-agency approach is best to agree the balance of risks and benefits of different treatment options, thus ensuring the development of a clear and manageable Child's Plan. In some circumstances self-harm may be symptomatic of other concerns experienced by a child, for example, child abuse. In such instances child protection measures – as outlined in the National Guidance for Child Protection in Scotland 2010

[www.scotland.gov.uk/publications/2010/12/09134441/0](http://www.scotland.gov.uk/publications/2010/12/09134441/0) may need to be considered, but any interventions to protect the child should also include supporting a child who self harms.

## Adults

In the case of adults, a key worker or care coordinator may need to ensure that other relevant services are alerted to the possible need for assessment, with any necessary protection procedures initiated. The Adult Support and Protection (Scotland) Act 2007 (the ASP Act) places a duty on local authorities and a range of public bodies, including health boards, to make inquiries when they know or suspect that an individual is or may be an adult at risk of harm. The ASP Act defines 'harm' to include self-harm.

The police have a key role in identification and referral of concerns about adults who are at risk from harm. Mechanisms should be in place to provide good multi-agency responses. A range of public bodies have duties of co-operation under the ASP Act, and a multi-agency approach is built into adult protection.

Beyond the initial duty to make inquiries, the ASP Act allows a range of actions to be taken to support and protect an adult. These include formal interventions under the ASP Act, such as removing the adult from a place where harm is occurring or is likely to occur. However, other actions can be taken under other statutes, particularly where the adult does not meet the conditions of the 3-point test, or through more informal methods, to ensure that an adult receives appropriate support and protection. This may include, for example, a care plan.

Practitioners should always be aware of the possible impact of an adult's situation (such as that of an adult who self-harms) on the well-being of any children in that adult's care and should be prepared to raise a concern if necessary, in line with the *Getting it right for every child* approach.

## **5. REFERENCES AND RESOURCES**

### **References**

*Responding to Self-harm*, Scottish Government, 2011,  
<http://www.scotland.gov.uk/Publications/2011/03/17153551/0>

Children and Young People Involved in Serious Incidents of Self-harm, Practice Guidance. Child protection Committee, Glasgow October 2006;  
[www.glasgowchildprotection.org.uk/NR/rdonlyres/03B64766-A7B5-4E1D-948A-374AB424F972/0/SelfHarmGuideOct06.pdf](http://www.glasgowchildprotection.org.uk/NR/rdonlyres/03B64766-A7B5-4E1D-948A-374AB424F972/0/SelfHarmGuideOct06.pdf)

Suicide Prevention for Looked after Children and Young People, Practice Guide, SCSWIS, June 2011;  
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Working with Independent Advocates, Mental Welfare Commission for Scotland, February 2009;

<http://www.mwscot.org.uk/search/?tag-filter-1359=1360>

Joint Multi-Agency Guidance: Children and Young People at Risk of Self Harm and:

[http://www.dundee.gov.uk/dundee/uploaded\\_publications/publication\\_543.pdf](http://www.dundee.gov.uk/dundee/uploaded_publications/publication_543.pdf)

A Guide to Implementing Getting it Right for Every Child: Messages from pathfinders and learning partners, June 2010

[www.scotland.gov.uk/Publications/2010/07/19145422/7](http://www.scotland.gov.uk/Publications/2010/07/19145422/7)

(A full set of resources, whether a child/young person, parent/carer or practitioner, is available at [www.scotland.gov.uk/gettingitright](http://www.scotland.gov.uk/gettingitright)).

Self-harm. The Short-Term Physical and Psychological Management and Secondary Prevention of Self-harm in Primary and Secondary Care. National Clinical Practice Guideline Number 16, commissioned by the National Institute for Clinical Excellence 2004.

[www.nice.org.uk/nicemedia/pdf/CG16FullGuideline.pdf](http://www.nice.org.uk/nicemedia/pdf/CG16FullGuideline.pdf)

Self-harm: Longer term Management, NICE Guideline, Draft for consultation, April 2011. [www.nice.org.uk/nicemedia/live/11799/54071/54071.pdf](http://www.nice.org.uk/nicemedia/live/11799/54071/54071.pdf)

Adult Support and Protection (Scotland) Act 2007

<http://www.scotland.gov.uk/Topics/Health/care/adult-care-and-support/legislation> (includes links to related guidance).

National Guidance for Child Protection in Scotland 2010. Scottish Government Publication, December 2010.

<http://www.scotland.gov.uk/Publications/2010/12/09134441/0>

Mental Health, Incapacity and the Law in Scotland. Hilary Patrick, Tottel Publishing, 2006.

(Not found online).

## Resources

These are examples of relevant resources to support people at risk of self-harm or suicide, or people caring for them – these are for the reader to select – we do not specifically recommend individual resources.

[www.samaritans.org.uk](http://www.samaritans.org.uk) : Samaritans offer 24-hour support for people in distress or despair, including those feeling suicidal. They

have branches all over the UK and most branches are able to offer services via telephone (08457 90 90 90), email ([jo@samaritans.org](mailto:jo@samaritans.org)), letter and face to face.

**Breathing Space** - a free, confidential telephone advice and signposting service – 0800 83 85 87 - for people who are feeling down or stressed. The related website [www.breathingspacescotland.co.uk](http://www.breathingspacescotland.co.uk) has a number of sections, including 'Your Mood', 'Your Problems', 'Self-help Toolkit' and a section if you are concerned about someone. There is a very extensive 'Links' section that contains details of many organisations.

[www.chooselife.net](http://www.chooselife.net) : a national strategy and action plan to prevent suicide in Scotland. The website contains information about suicide, for those that are feeling suicidal and for those bereaved by suicide. There is an extensive 'Links' section that covers a number of areas relevant to mental health.

[www.crusescotland.org.uk](http://www.crusescotland.org.uk) : Cruse Bereavement Care Scotland is a registered charity which offers free bereavement care and support to people who have experienced the loss of someone close.

[www.actionondepression.org](http://www.actionondepression.org) : Action on Depression is the national charity for people with depression in Scotland.

[www.lookokfeelcrap.org](http://www.lookokfeelcrap.org) : This is a self-help website (run by Action on Depression) which provides advice and access to other resources.

[www.lifelink.org.uk](http://www.lifelink.org.uk) : LifeLink provides free support and advice to people in crisis, who self harm and are at risk of suicide in the North Glasgow area.

[www.respectme.org.uk](http://www.respectme.org.uk) : Scottish anti-bullying charity provides training, information, advice and other resources to help tackle bullying.

[www.samh.org.uk](http://www.samh.org.uk) : the Scottish Association for Mental Health (SAMH) provides local community support services offering practical and emotional support, social activities, advice on employment and education and help with personal care and health issues. SAMH has published a valuable guide: *After a Suicide*, which can be accessed via [www.samh.org.uk/our-work/national-programmes/suicide-prevention](http://www.samh.org.uk/our-work/national-programmes/suicide-prevention)

[www.wellscotland.info](http://www.wellscotland.info) : mental health information site with priority areas, news and research information. It contains a section 'Useful Contacts' that provides details should you need immediate help and a Directory (A-Z) of organisations and agencies throughout Scotland.

[www.livinglifetothefull.com](http://www.livinglifetothefull.com) : this is a free online life skills resource. It aims to help users change the ways in which they think, and to respond in new ways to the challenges faced in life. **Please note:** the website is not an appropriate substitute to seeing a practitioner if you feel very distressed or are actively suicidal.

[www.mentalhealth.org.uk](http://www.mentalhealth.org.uk) : the website of the Mental Health Foundation outlines the charity's work in research, policy, service development and service user involvement. The site offers information and publications to download on research, good practice in services and on mental health problems and key issues. It provides a daily mental health news service and directories of organisations, websites and events. Website visitors can use forums and bulletin boards, join a mailing list and find out how to support the organisation.

[www.survivorscotland.org.uk](http://www.survivorscotland.org.uk) : Scotland's National Strategy for survivors of childhood abuse. SurvivorScotland, developed by the Scottish Government, aims to raise awareness of childhood abuse and its long-term consequences, improve services and enhance the health and wellbeing of survivors. The website includes a wide range of useful information as well as agencies for people to contact.

[www.incaresurvivors.org.uk](http://www.incaresurvivors.org.uk) : the In Care Survivors Service Scotland, a partnership led by Open Secret, is a support service for adults who suffered childhood abuse in care - and for their families. It is a team of specialists offering help specifically for survivors of historic in-care abuse under a national framework of advocacy, mediation and counselling services including (1) a hub of locally based development workers able to link up with services across Scotland to offer survivors and their families support, advocacy and confidential counselling; (2) a national confidential telephone support line – 0800 121 6027 – providing support, guidance and advocacy to those who suffered abuse and to their families; and (3) help for survivors to access the Criminal Injuries Compensation scheme and support to pursue other legal issues (for example support to attend court)

**Childline** Call 0800 1111 or talk online [www.childline.org.uk](http://www.childline.org.uk)

**Seasons for Growth** [www.notredamecentre.org.uk](http://www.notredamecentre.org.uk) Seasons for Growth is a loss and grief education programme catering for young people aged 6-18 years.



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