



North Ayrshire Child Protection Committee

Multi-Agency Guidance for the exchange of
information between adult and children's services

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1. Introduction

The core message of, “It’s everyone’s job to make sure I’m alright”, has been widely embraced by adult and children’s services in North Ayrshire. The responsibility for protecting children is shared by all staff working across agencies in North Ayrshire and services also work in partnership with local communities to raise awareness of child protection amongst members of the public.

Effective information sharing is an essential component of activity to protect children. Professionals should understand when it is necessary to share information, what information to share and how to use that information in order to secure best outcomes for children.

Learning from Significant Case Reviews, following the death of a child from abuse or neglect, has highlighted the critical value of information sharing between adult and children’s services in order to conduct a robust assessment of risk and need and make decisions in the best interest of the child.

The National Guidance for Child Protection in Scotland, published in December 2010, makes it explicit that *“services and agencies who may have previously seen their role as being to ‘pass on’ concerns are now expected to take a proactive approach to identifying and responding to potential risks, irrespective of whether the child in question is their ‘client’, ‘patient’, or ‘service user’.*

“All agencies, professional bodies and services that deliver adult and/or child services and work with children and their families have a responsibility to recognise and actively consider potential risks to a child, irrespective of whether the child is the main focus of their involvement.”

Part 2 of the National Guidance for Child Protection in Scotland sets out roles and responsibilities for child protection. This section explicitly includes responsibilities for a range of services and professional bodies including local authority adult support services and adult healthcare providers.

This guidance has been produced to support best practice in information sharing between adult and children’s services across North Ayrshire in order to effectively protect children and meet their needs.

2. Equality and Diversity

North Ayrshire Child Protection Committee promotes equal access and opportunities to all individuals. All partners are committed to treating people respectfully, fairly and equally and to tackling discrimination in all of its forms. No one should be discriminated against on the basis of race, ethnicity, disability, sexual orientation, religion, gender or age. All partners within the Committee value diversity and actively challenge discrimination and prejudice. Service users should be listened to and respected and should have access to services which are fair, consistent and accessible to everyone, irrespective of their race, ethnicity, disability, gender, age, religious belief or sexual orientation.

3. Who this guidance is for

This guidance is for all staff within adult and children's services who provide a service to those who live in North Ayrshire. It has particular relevance for staff in adult services who work with individuals who have difficulties that may impact on their ability to care safely for their children; and for staff who work with vulnerable children and families.

4. Scope of this guidance

There are certain circumstances which require the involvement of adult services and may be more likely to increase the need for effective information sharing in order to protect children. These circumstances, while not exhaustive, include:

- Parents/carers with drug or alcohol misuse
- Parents/carers involved in offending behaviour
- Parents/carers with mental health difficulties
- Parents/carers with learning disabilities
- Parents/carers displaying anti social behaviour

Initial and ongoing assessment by those providing services to adults in the circumstances noted above, must always include consideration of how the service user's condition, behaviour or lifestyle may impact on any child care responsibilities.

Best practice also involves sharing information with regard to parents and carers whose actions or behaviour could result in ineffective partnership working between agencies to promote and protect the wellbeing of children. For instance, this would include parents/carers who display aggressive behaviour or who are known to employ a range of diversionary tactics to deflect attention from agencies concerns.

This guidance has been developed to complement existing procedures. These procedures have been reviewed and where gaps were identified this document provides the primary guidance. Where primary guidance exists elsewhere this has been signposted in this document

5. Definitions

For the purpose of this guidance the following definitions are provided:

Child:

- (i) a child who has not attained the age of sixteen years
- (ii) a child over the age of sixteen years who has not attained the age of eighteen years and in respect of whom a supervision requirement is in force

Parent/carer:

Person(s) who has parental responsibilities in respect of a child or who ordinarily has charge of, or control over, a child.

6. Principles

- The welfare of the child is of paramount consideration
- Children have a right to be protected from abuse, harm and exploitation
- Parents should normally be responsible for the upbringing of their children
- Public services should support parents to bring up their children
- Information held by services should be treated respectfully, recorded accurately and stored securely
- Services should have in place a policy to explain to service users what information is held about them and in what circumstances it might be shared with others
- Generally, consent should be sought before sharing information, except where this may place a child or adult in need of support and protection, at risk of harm
- Where any service has information that may aid understanding of a child's circumstances in respect of their needs and risks, this should be shared appropriately

7. Minimum standards of information gathering and assessment:

Service providers need to record a basic level of information about service users which can:

- (a) help to identify when concerns arise that need to be shared with others, or
- (b) be shared with those seeking information due to existing concerns about a child

This section provides an outline of the data that should be recorded and maintained for all service users.

Information required at outset of contact with service user:

1. Name/age or date of birth of all adult members of a household
2. Name/age or date of birth for all children living in the house or regularly staying overnight
3. Name/age or date of birth of children of the adult members of a household who do not live with them
4. Child care/parenting responsibilities of each adult, including who has primary or sole care of any of the children.
5. Adult factors which could potentially impact on parenting capacity
6. How adults in the household are related (e.g. cousin, uncle or marital relationship)
7. Any known information about the nature of relationships such as history of violence or domestic abuse.

Ongoing requirements during contact with service user:

1. Changes to household composition
2. Changes to needs of children
3. Changes to adult circumstances
4. Changes in child care/parenting responsibilities
5. Changes to adult relationships
6. Reassessment/observation of the adult
7. Response following observation/assessment of child's needs/risks
8. Any other information relevant to assessing parenting capacity.

Each service will have recording and practice guidelines which highlight how and when information should be gathered and reviewed. All staff are responsible for ensuring the information they hold about service users is current, accurate and stored securely.

Each service should have clear guidelines in relation to reassessment and observation of adults and this should include pathways for responding depending on the level of assessed need and risk.

It is recognised that usually the primary source of information is the service user themselves and that the nature of information and level of detail held will often depend on what they feel able to share with the service provider.

It is also recognised that some services may not collect the range of information noted above. However, the information above is regarded as useful in relation to proving an effective inter agency response to protecting children and services must take every opportunity to maximise their recording of such information.

Parents/carers with alcohol and/or drug misuse

Substance misuse can involve alcohol and/or drugs (including prescription as well as illegal drugs).

Impact of parental alcohol and/or drug misuse on children and the parenting role

The risks to, and impact upon children of substance misusing parents/carers are known and well researched. Alcohol and/or drug misuse during pregnancy can have significant health impacts on the unborn child. Parents/carers who misuse substances may lack the ability to provide structure, routine and discipline within family life and their capacity for providing consistent warm and responsive care to their children can be undermined.

It is important that all practitioners working with alcohol and/or drug misusing parents/carers know the potential impact of that misuse on children, both in terms of the care environment and of direct exposure to alcohol and/or drug misuse. Addiction staff also need to know when and how to share information to keep children safe, and should understand the contribution they can make to assessing risks and needs, and planning.

Effective information sharing regarding parents/carers with alcohol and/or drug misuse

In 2005 North Ayrshire Child Protection Committee developed operational protocols for inter agency working with children and families affected by substance misuse. This was in response to recommendations from the then Scottish Executive following learning from the O'Brien Report on the death of Caleb Ness and the Hidden Harm report.

The NACPC Getting Our Priorities Right (GOPR) Protocols and Operational Procedures for Interagency Working with Children and Families Affected by Substance Misuse aims to promote effective interagency information sharing and assessment in respect of children living in households where substance misuse is an issue.

The full document can be downloaded at www.childprotectionnorthayrshire.info

GOPR includes the procedure for referral of unborn children about whom there are safety concerns and this should be utilised in circumstances where an adult who is misusing alcohol and/or drugs becomes pregnant.

It is recognised that the current GOPR guidance is somewhat dated, and staff are reminded to also consult their own agencies child protection procedures/child protection guidelines.

In 2011, the Scottish Government is undertaking a revision of GOPR due to the expansion of knowledge in this area over recent years. North Ayrshire Child Protection Committee and North Ayrshire Alcohol and Drug Partnership will be involved in this work. Once the national guidance has been reviewed, local guidance will be updated and this will be published on the NACPC website as above.

Parents/carers involved in offending behaviour

Criminal behaviour has been identified as a common theme in several cases of child deaths and serious abuse in Scotland (Vincent, 2010). Many of the adults in the inquiry and review reports in Scotland had criminal convictions and police intelligence suggested that some of those who did not have criminal convictions had been involved in criminal activity.

Impact of offending behaviour on children and the parenting role

Where parents/carers engage in offending behaviour, there may be a number of potential implications for children and young people within that household:

- Separation from a parent/carer due to custody – either short or long term. This may result in issues of loss of a parent/carer which can have long term implications for children's emotional well being.
- If one parent/carer is imprisoned, the couple may separate and a new partner may join the household. Such loss and change has a significant impact on children.
- Police raids on a household may be frightening for children and young people

- All professionals need to be aware of the link between domestic abuse and the risk of harm to children, and be alert to the risk that violent males pose to vulnerable women and children.

Effective information sharing regarding parents/carers involved in offending behaviour

Effective communication between criminal justice staff and children and families staff can be vital in responding to children in need of protection. There are established procedures for the communication between colleagues based in criminal justice services and colleagues in children and family fieldwork regarding child protection concerns (Criminal Justice Social Work Services Child Protection Procedures), and these ensure that where children are affected by any offending behaviour by their parent/carer then their needs are responded to effectively.

Staff may also wish to refer to the NACPC guidance “*When parents or carers of children involved in child protection processes are arrested.*” This can be downloaded from:

www.childprotectionnorthayrshire.info

Parents/carer’s with mental health difficulties

Mental health might usefully be viewed as a continuum of experience, from mental wellbeing to a severe and enduring mental illness.

Everybody experiences changes in mental health and well being, influenced by social, personal, financial and other factors. Major events such as bereavement can impact on how people feel about themselves and can lead to depression and anxiety.

A minority of people may experience mental health problems to such a degree that they are diagnosed with a defined mental illness, requiring the involvement of specialist services and support.

Mental illness refers to a diagnosable illness that significantly interferes with a person’s ability to conduct the tasks needed for day-to-day living.

These tasks include the range of self care skills, the ability to regulate emotional arousal and the ability to appropriately interact with others.

The more common mental illnesses include clinical depression, postnatal depression, severe anxiety, schizophrenia, bi-polar affective disorder, obsessive compulsive and eating disorders, personality disorder, dementia (including alcohol related brain damage). Mental illnesses are usually defined medically by using internationally recognised classifications.

Impact of Mental Illness on children and the parenting role

- Parental mental illness is likely to affect children. It can impact on parenting and the parent-child relationship.
- Parenthood itself can precipitate and influence mental illness.
- Children's developmental needs and mental health can have an impact on parental mental health.
- The parent/carer may be unable to anticipate the needs of the child or put the needs of the child before their own.
- The child may become involved in the parent/carer's delusional system or obsessive compulsive behaviour.
- The child may become the focus for the parent/carer's aggression or rejection.
- The child may witness disturbing behaviour arising from the mental ill health.
- Providing physical care is more difficult when mental illness can leave a parent lacking in energy, unable to concentrate or go out.
- Providing a secure emotional environment can be difficult if mental illness impairs the capacity to accept, tolerate and express feelings, or to have empathy and communicate effectively.
- Managing children's behaviour requires emotional control, energy, decisiveness and concentration.
- If the parent/carer is hospitalised, there is the impact of separation on the child.
- The child may take on caring responsibilities inappropriate for their age and stage of development.
- Successful interventions both in the short term (to reduce stress and negative impacts on the children) and longer-term preventative strategies can potentially reduce the proportion of children who go on to require psychiatric services as adults.
- A better understanding of how children experience growing up with a mentally ill parent, and the impact on them of this experience, helps service planners and professionals to improve the effectiveness of interventions.
- Alcohol and drug usage should also be noted as significant impact factors. Mental health problems can frequently be significantly co-issues alongside substance misuse, where substance can sometimes be used as 'self-medication'. One impact of this is that even if the substance misuse is addressed, life in the family may not feel significantly improved for the children. This highlights the importance of assessing change from the child-focussed perspective when addressing other presenting issues.

Effective information sharing regarding parents/carers with mental health difficulties

All staff working with adults who have mental health difficulties must ascertain whether their service user has child care responsibilities and, if so, assess whether these difficulties may impact on their service users parenting capacity. This should form part of ongoing assessment processes and should be reviewed regularly.

Children living in households where a parent or carer has mental health difficulties may require additional support in their own right. For instance, they may have caring responsibilities at home or their opportunities for growth and development may be curtailed.

Good communication is vital between professionals and agencies and it is important to ensure that what is communicated is clear in its message and the implications for the child's protection and well being are clearly understood by all involved.

Ensuring a shared understanding of information is complex. Staff must be clear with themselves and with colleagues about the boundaries of their professional knowledge.

For instance, mental health practitioners have primary responsibility for sharing information which is relevant to ensure there is safe and effective care of their clients children. This may involve both sharing information about the parent/carers mental health and also outlining the potential implications of this information to other professionals involved with the family, in order to contribute effectively to assessments of a child's needs and risks.

Staff working with children and families need to consider the needs of the child and how the information that is being shared about the parent/carers mental health impacts on these needs.

Thus, joint information sharing provides the foundation for joint assessment.

In North Ayrshire, all children have their needs assessed using the GIRFEC practice model which utilises the well being indicators, "my world" triangle and resilience matrix.

Some practical applications related to parental mental health issues are suggested below (adapted from Calder and Hackett, 2003);

Risk/Concern	Response/assessment	Action
Explicit child protection concerns	Multi agency assessment of risk and need for the child, under North Ayrshire child protection procedures. Throughout this process there is a need for both children and families and mental health workers to work particularly closely together. Plans for the child must be developed together and reviewed jointly.	Child protection referral must be made where child protection concerns exist. Information must be shared to inform a multi agency assessment of risk and need for the child.

Mental health emergency which affects the care of the child	Where the mental health emergency affects the care of the child, this information must be shared with children and families social services and an assessment of the care arrangements for the child must be undertaken.	Initial assessment by mental health services of implications for any child care responsibilities. Assessment of the care arrangements for child is required. Information must be shared to inform a multi agency assessment of risk and need for the child.
Significant parenting or mental health concerns. Care of children causes concern but does not require urgent child protection response and/or parental mental health is cause for concern but does not require urgent assessment.	Multi agency assessment of risk and need for the child, under GIRFEC. Any plan for the child must be developed together and reviewed jointly.	Referral requires to be made to children and family services. Information must be shared to inform a multi agency assessment of risk and need for the child.
Concerning issues about Parenting/Mental Health: there is a need for support to the family and/or for mental health service support for the parent.	Agencies make separate assessments of need – BUT work together on support provision such as family support services (such as day carer for a child) and/or supportive mental health services (such as counselling).	Assessment of risk/need
Self-Supported Families: there is no concern about the welfare of children and parent is managing own mental health with family and primary care support.	These are parents with mental health problems who are able to function adequately and to care appropriately supported by universal and primary care services as well as family.	Universal and primary care services provide support as required and undertake ongoing assessment and review.

Parents/carer's with learning disabilities

Learning Disability is a lifelong experience with 3 components:

- Reduced ability to understand new and complex information or to understand new skills
- Reduced ability to cope independently
- Onset before the age of 18 with a lasting effect on the person's development

[The 'Same As You', Scottish Executive, 2000]

- The level of disability ranges from mild to moderate to severe to profound. The person may also experience other things such as: physical disabilities; sensory impairment; mental illness; communication difficulties; epilepsy.

- Prevalence figures suggest that 2-3% of the general population have some degree of learning disability, which equates to some 120,000 people in Scotland.

[Scottish Executive 2002]

- Compared to the general population, people with learning disabilities:
 - Are 4 times more likely to die of a treatable illness.
 - 58 times more likely to die before aged 50 years.
 - May have 5 undiagnosed conditions at any time
 - Are 20 times more likely to have epilepsy
 - Have higher levels of mental ill-health
- Some of the challenges professionals face in meeting the needs of people with learning disabilities are:
 - Diagnostic over-shadowing (symptoms hidden by other issues)
 - Multiple health needs
 - Communication difficulties
 - Non-engagement
 - Problem behaviours

Impact Of Learning Disabilities On Children And The Parenting Role

- Although the numbers of people with learning disabilities having children is relatively small (establishing numbers is difficult – varying widely from 23,000 to 250,000 across the UK) [*Nursing Times, August 2007*]. There are increasing numbers coming into contact with services. The learning disability has an impact on both the parent and the child.
- Parents with learning disabilities have more chance of their children being taken into care [*Community Care, June 2000*]. Providing physical care and a secure, emotional environment can be difficult when the parent(s)' abilities are impaired in any way. Managing children's behaviour requires focussed intervention from the parent(s).
- Several factors have been demonstrated to have an adverse effect on parenting, such as: low socio-economic status; unemployment and social isolation. All of these factors make parenting difficult and parents with learning disabilities are at greater risk of experiencing one of more of these disadvantages.
- Up to 90% of people with learning disabilities will have communication difficulties. Some of the common demonstrations of this are:
 - Inability to articulate how they are feeling
 - Inability to make choices and consent to treatment/procedures.
 - Difficulty discussing their concerns/symptoms.

- Someone else mis-interpreting/misunderstanding their behaviour

All of this will have an impact on the children of parents with a learning disability.

Effective Information Sharing Regarding Parents/Carers With Learning Disabilities

The same as you? A review of services for people with learning disabilities, (2000), is the Scottish policy driver for learning disability and should be carefully consulted when working with parents/carers with learning disabilities.

Practice guidance in the learning disability field suggests the following key features of good practice:

- Accessible information for parents in easy-to-read format
- Clear and co-ordinated referral routes are important in order to recognise support needs at an early stage of parenting.
- Support should be designed to meet the needs of parents and children.
- Support should be long-term, where necessary.
- Advocacy support should be available to parents.

Parents/carers displaying anti social behaviour

Antisocial behaviour can mean different things to different people. The Antisocial Behaviour etc (Scotland) Act 2004, defines antisocial behaviour as:

- Acting in a manner that causes or is likely to cause alarm or distress; or
- Pursuing a course of conduct that causes or is likely to cause alarm or distress to at least one person not of the same household as the perpetrator.

Impact of anti social behaviour on children and the parenting role

Anti social behaviour may have a range of impacts on children and young people.

Behaviour that causes alarm or distress is likely to affect children within the household. This can place children in a state of alarm or distress themselves; it may model inappropriate behaviour which children and young people may imitate and it may result in disruption for the child through changes of carer or house moves. Housing difficulties have been found to be common in families where children die or are seriously abused and victims families tend to move home more frequently than other families (Sanders et al., 1999; Wilczynski, 1995).

Effective information sharing regarding parents/carers displaying anti social behaviour

The antisocial behaviour case conference system has been in operation since 2005. This system established an Information Sharing Protocol between various agencies to set out guidelines on sharing information on anti social behaviour cases (See Appendix One). Central to the process is the anti social behaviour case conference system. Each partner to the Information Sharing Protocol receives an invite to the case conference and a brief description of the incident and the individuals involved, they then decide if they have an interest in attending the case conference. Other agencies, not signed up to the Information Sharing Protocol, can be invited with the permission of the partners.

The case conference meets to discuss the case and exchange relevant information. A decision is then made on how to proceed. Key concerns are the vulnerabilities of alleged offenders and those who live with them. This is balanced against the impact of their behaviour on any victims. Partners agree on the actions to be taken and the partners monitor the development of the case for improvement. If the situation deteriorates then another case conference can be called.

For further information or advice on any aspect of the anti social behaviour investigation team, please contact Pat Kelly, ASBIT Manager, 01294 314681, pat.kelly@north-ayrshire.gov.uk

Summary of key points

- **Children and their parents/carers are better supported and protected if services and interventions are co-ordinated and information is shared effectively.**
- **Services working with adults who have child care responsibilities must always consider how their service user's condition, behaviour or lifestyle may impact upon their parenting capacity.**
- **Professionals have a responsibility to establish effective communication links within and across agencies in order to facilitate information sharing, joint assessment and planning and co-ordinated intervention.**
- **The assessment and intervention provided needs to strike the balance between support of the parent and monitoring and ensuring the safety of the child.**

APPENDIX ONE

INFORMATION SHARING PROTOCOL

SHARING OF INFORMATION

TO TACKLE

ANTISOCIAL BEHAVIOUR

Joint Protocol between

Strathclyde Police, The North Ayrshire Council, NHS Ayrshire & Arran, Scottish Children's Reporter Administration, Crown Office and the Procurator Fiscal Service, Irvine Housing Association Limited, Cunninghame Housing Association Limited and Ayrshire North Community Housing Organisation Limited.

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A. STRATEGY, THE LAW AND INTERPRETATION

1. INTRODUCTION

- 1.1 The signatories to this protocol (referred to throughout as 'the partner agencies' - however see paragraph 11.6.2 (C) regarding the role of The Crown Office and Procurator Fiscal Service) are committed to proactively tackling antisocial behaviour and taking action to combat antisocial behaviour where individuals refuse to desist from causing alarm and distress.
- 1.2 It is recognised that the sharing of information between interested parties is vital to the success of any endeavour aimed at dealing effectively with the problem of antisocial behaviour and the causes of it.
- 1.3 To this end, a pilot information sharing scheme funded by the Scottish Executive has been set up in the local government area of North Ayrshire. The value of using information technology as a tool by which information can be efficiently and securely shared has been recognised by the purchase of a software system (referred to throughout this protocol as 'Caseworks'). Caseworks is a browser-based database system of data storage and exchange which is hosted on a central server at a secure location. It has been designed to the partner agencies' specifications and will act as the principal means of disclosing and sharing information between the partner agencies.
- 1.4 This purpose of this protocol is to create and define a framework for the lawful, proactive and productive sharing of information between the partner agencies, and to achieve best practice in the prevention, investigation and detection of antisocial behaviour. For the avoidance of doubt, this protocol shall only remain in force and effect for the duration of the said pilot information sharing scheme. At least three months prior to the date on which the said pilot information sharing scheme is due to terminate, a review process involving all of the partner agencies shall be initiated. The purposes of this review process will be to (a) assess the success of the present system of information sharing, and (b) determine the appropriate basis and mechanism for the continued sharing of information between the partner agencies and any other agencies who wish to become involved in the information sharing process.
- 1.5 The partner agencies are agreed that this protocol is not intended to give rise to legally binding obligations between them. Rather, it is intended that this protocol be viewed as a statement of good practice and intent in respect of the exchange and sharing of information relating to antisocial behaviour between the partner agencies.

2. STRATEGIC BASIS

- 2.1 Section 1 of the Antisocial Behaviour etc. (Scotland) Act 2004 (referred to in this protocol as 'the 2004 Act') places an obligation on The North Ayrshire Council(NAC) ('the Council') and the Chief Constable of Strathclyde Police to produce a strategy to tackle antisocial behaviour within the local government area of North Ayrshire.
- 2.2 A fundamental component of this strategy is the giving and receiving of information to and from 'relevant authorities' who have 'an interest in dealing with antisocial behaviour'. In particular, the 2004 Act requires Registered Social Landlords to be involved in the production and operation of the strategy and the information sharing process. The Registered Social Landlords who are signatories to this protocol are: Irvine Housing Association Limited, Cunninghame Housing Association Limited, and Ayrshire North Community Housing Organisation Limited (referred to in this protocol as 'the RSLs').

3. LEGISLATION

- 3.1 The main legislative provision in respect of antisocial behaviour in Scotland is the Antisocial Behaviour etc. (Scotland) Act 2004. The 2004 Act introduced new provisions relating to applications for interim and full Antisocial Behaviour Orders ('ASBOs') by Local Authorities and Registered Social Landlords. Section 139 of the Act enables the disclosure and exchange of

information between relevant authorities where this is necessary or desirable to fulfil duties imposed by the 2004 Act or any other legislation relating to antisocial behaviour.

- 3.2 The Data Protection Act 1998 regulates the handling of personal data. Disclosing personal data is lawful where the purpose of the disclosure is directly related to an explicit or implied duty of an agency and the processing conforms to or is exempt from the Data Protection principles and is deemed necessary to achieve the legal purpose. Section 29 of the Data Protection Act is of particular significance for the purposes of this protocol, as it provides for information sharing relating to the investigation of crime and the detection and prosecution of offenders.
- 3.3 The Human Rights Act 1998 and Regulation of Investigatory Powers (Scotland) Act 2002 also have a significant bearing on the investigation of antisocial behaviour. The Housing (Scotland) Act 2001 provides the statutory basis for Local Authorities and Registered Social Landlords to reduce tenancies on the grounds of antisocial behaviour. Legislation governing noise, pollution and general acts of nuisance may also be referred to.
- 3.4 Section 20 of The Local Government in Scotland Act 2003 empowers local authorities to co-operate and work in partnership with any person or body to do anything (subject to the limits imposed within section 22 of that Act) which it considers will be likely to promote the well-being of its area and/or any person within that area.
- 3.5 The legislative framework should be seen to support, rather than prohibit, effective and thorough investigation.

4. DEFINITION OF ANTISOCIAL BEHAVIOUR

- 4.1 For the purposes of this protocol, antisocial behaviour is defined in accordance with the statutory definition contained at section 143 of the 2004 Act:-

‘a person (‘A’) engages in antisocial behaviour if ‘A’ -

acts in a manner that causes or is likely to cause alarm or distress; or
pursues a course of conduct that causes or is likely to cause alarm or distress,

to at least one person who is not of the same household as ‘A’.

- 4.2 ‘Conduct’ includes speech; and a course of conduct must involve conduct on at least two occasions.

The above definition must be used when considering whether a person’s conduct amounts in law to antisocial behaviour, and it must be borne in mind that:

- a. Conduct which in law amounts to antisocial behaviour does not necessarily mean that such conduct also amounts to a criminal offence; and
- b. Conduct which does amount to a criminal offence does not necessarily also fall within the legal definition of antisocial behaviour.

In most cases where someone’s conduct is complained about, those responsible for investigating that complaint must carefully consider whether, in all of the circumstances, the conduct complained of comes within the legal definition of antisocial behaviour.

- 4.3 Investigations which are being conducted for the sole purpose of determining whether or not a criminal offence has been committed and with a view to bringing a criminal prosecution are normally carried out by the police although other statutory bodies also have an investigative role in respect of particular kinds of criminal conduct.

5. MANAGEMENT OF INFORMATION

- 5.1 All parties to the protocol agree to abide by the terms of the Data Protection Act 1998, in that

- All data shall be securely transmitted and stored;
- All information provided shall be used for no other purposes than those contained within this protocol;
- Reasonable steps will be taken to ensure that all information disclosed is accurate;
- All information shall be updated as required.

5.2 **The Data Protection Act 1998** governs the sharing, storing and management of information. Section 29 contains an exemption when information is being sought for crime prevention and detection and the apprehension or prosecution of criminals. Section 139 of the 2004 Act extends the provisions of the Crime and Disorder Act 1998 and allows for the disclosure and sharing of information between 'relevant authorities', which for the purpose of the Act is the Local Authority, the Chief Constable, the Principal Reporter to the Children's Panel and Registered Social Landlords. A similar provision exists at section 115 of the Crime and Disorder Act 1998 which permits the inclusion of the Health Authority in the information disclosure and sharing process. It is these two sections which act as the basis on which all information can lawfully be exchanged between agencies.

5.3 Each partner agency involved in the exchange of information should ensure that personal data and protectively marked information (including sensitive personal data) is protected from unauthorised disclosure and that the disclosure is relevant for the purposes of antisocial behaviour. Parties should also ensure that information relating to individuals is filed in such a way that ensures that specific information relating to a particular individual is readily accessible.

5.4 To ensure uniformity throughout the whole approach to information exchange those relevant partner agencies who have an interest in dealing with antisocial behaviour should ensure that the procedures in paragraph 11 of this protocol are adhered to. If not, that agency's ability to effectively manage information will be diminished. It should be stressed at this stage that multi-agency meetings relating to the management of information should be positively promoted and held as examples of best practice. The procedures relating to multi-agency case conferences are contained within paragraph 11.5 of this protocol.

5.5 **PROTECTIVE MARKING**

As Strathclyde Police implements the Government Protective Marking Scheme ('GPMS'), information which is shared will carry a protective marking. The markings are as follows (starting with the highest and finishing with the lowest):

TOP SECRET
SECRET
CONFIDENTIAL
RESTRICTED
NOT PROTECTIVELY MARKED

The requirements for handling and securing protectively marked information will be provided by Strathclyde Police.

It is expected that the information which Strathclyde Police will share with partner organisations will not carry a protective marking higher than RESTRICTED. Notwithstanding these classifications, there will be a full and frank exchange of information in terms of section 139 of the 2004 Act and section 115 of the Crime and Disorder Act 1998.

5.6 **PHYSICAL SECURITY**

In respect of RESTRICTED information, hardcopy and magnetic media versions of such information, including personal data and sensitive personal data (as per the Data Protection Act 1998) should be protected by one security barrier - such as a locked container or cupboard or filing cabinet.

Workstations which access shared data should be sited within secure office accommodation to which access is controlled.

5.7 **ELECTRONIC SHARING OF INFORMATION**

5.7.1 Facsimile

Where formal requests for information require to be faxed (exceptional circumstances) the following process should be followed:

Recipient notified of incoming fax.

Record made of date and time fax sent (confirmation sheet should be used where ever possible).

Confirmation of receipt of fax to be provided by recipient to the sender.

The same process should be used when sending an urgent response.

5.7.2 Database

The exchange of information between partner agencies (excepting COPFS) will take place by means of a software database created and operated by means of the Caseworks software purchased by the Council from Hub Solutions. This database will be stored on secure servers solely dedicated to the task of storing the database and enabling the input thereto and the viewing and retrieval, to the extent permitted, of data therefrom by partner agencies.

Access to the database for the purpose of inputting or storing information shall be restricted to authorised members of staff of the partner agencies, and that by means of secure internet connection from terminals operated by the partner agencies and which are physically situated on the premises of the partner agencies.

Access to the database by the partner agencies shall be by means of an auditable logon process, which shall require each user to logon using an appropriate authentication method such as a password. Each partner agency's user ID will be unique to that partner agency and each authorised member of staff of that partner agency shall also be provided with his or her own unique ID which shall require to be validated as part of the logon process to the database.

Data transmitted between the database and the terminals operated by partner agencies shall be in an encrypted form conform to the Secure Sockets Layer protocol for information transmission security.

Administrator access to the database is to be limited to those who need such access in order to maintain or manage the server, software or user profiles.

Initially, the database will be held on servers operated from a secure location by lomart group plc ('lomart') conform to a contract between lomart and the Council and approved by Strathclyde Police. A copy of the contract will be circulated to all partner agencies following the execution thereof by the parties thereto.

The ownership of the servers will during the first two years of the said contract between the Council and lomart be vested in lomart, but shall thereafter vest in the Council. lomart shall not have, and shall not be permitted to acquire, any right or title in or to any information stored on the database.

No later than three months prior to the expiry of the said contract, and as often as may be required thereafter, the Council shall convene a meeting of the partner agencies for the purpose of considering the future hosting of, and access to, the database and the information stored thereon. Any decision taken by the Council in respect of the hosting of the database (and access thereto

and to the information thereon) shall only be made with the agreement of the other partner agencies.

Further to paragraph 11.1 of this Protocol, the audit trail for the database must be activated and checked by each partner agency on at least a monthly basis for discrepancies and irregularities in respect of:

- (a) the information uploaded by that partner agency to the database; and
- (b) all other activities, actions or operations carried out by, or from that partner agency's terminal to information stored on the database.

The audit trail should detail: logon, logoff, data accessed, actions undertaken with the data accessed (copied, deleted, amended), new record/data created, date of activity, time of activity, user ID linked to activity, and terminal/workstation linked to activity.

5.7.3 Terminals

Terminals operated by the partner agencies for the purpose of accessing the database or processing the shared information will need to be protected accordingly.

Each member of a partner agency's staff who is authorised to access the database (an 'authorised user') and the information stored thereon will require to logon to that partner agency's terminal and, at the time of each connection, to the database by means of an auditable process. When an authorised user logs on to the terminal or to the database, the identity of that authorised user will require to be validated by an appropriate authentication method. Each authorised user shall be issued with a unique user identity. No authorised user may pass his/her user identity, or any password or other means of identity verification which he or she has been issued with, to any other person.

When leaving terminals unattended, authorised users should either log out, lock the terminal or activate a password protected screensaver.

5.8 **BREACHES OF SECURITY**

All known or suspected breaches of security in relation to the shared database and information shared under this agreement - such as misuse or abuse of the system, misuse or abuse of information shared, unauthorised processing of data, unauthorised disclosure of information, malicious software attack, denial of service attack - are to be reported to the respective organisations Information Security Officer or equivalent (such as I.T. Security Officer, Security Manager) or Data Protection Officer where an Information Security Officer (or equivalent) is not in post. Once notified of a breach of security an investigation is to be undertaken to identify, where possible, who carried out the breach, what information has been compromised, whether the integrity of the system has been compromised etc.

Where any breach of security may amount to criminal activity, this must be reported to Strathclyde Police who will investigate the matter and where appropriate, report the circumstances to the Procurator Fiscal.

Where relevant or necessary, partner organisations are to be informed of the breach and provided with sufficient details which will enable them to retain assurance in the confidentiality, integrity and availability of the information and the processes supporting the information exchange, and to undertake risk assessments within their own environments.

5.9 **MALICIOUS SOFTWARE**

Appropriate measures are to be undertaken to protect the shared database from malicious software attack or a denial of service attack.

Anti-virus software is to be implemented for the server and regular updates received (minimum of daily).

In the event of a malicious software attack or denial of service attack the same process as for security breaches is to be followed.

6. **WHO SHOULD USE THIS PROTOCOL?**

6.1 This protocol is intended for use by staff of the various signatories to it.

Ordinarily, this will involve:

- Members of staff of the Council's Housing, Legal, Social Services, Education and Environmental Health Services;
- Members of staff of the Registered Social Landlords who are signatories to this protocol;
- Members of staff of Strathclyde Police;
- Members of staff of Scottish Children's Reporter Administration;
- Members of staff of NHS Ayrshire & Arran; and
- Members of staff of the Crown Office and Procurator Fiscal Service

Section 139 of the 2004 Act provides a power to share information between relevant authorities. The current definition of "relevant authorities" includes Local Authorities, Chief Constables, Registered Social Landlords, the Principal Reporter and authorities administering housing benefit.

7. **ROLES AND RESPONSIBILITIES**

7.1 In Scotland, only Local Authorities and Registered Social Landlords have the power to apply for an ASBO; the police have no power to do so. Rather, the role of the police is to support the process by the provision of relevant information at all stages of the process, and by:

- (a) attendance at meetings convened for the purpose of discussing and in gathering information pertaining to alleged antisocial behaviour and the background to it;
- (b) attendance at meetings concerning the determination of what action, if any, is appropriate to tackle the alleged behaviour and prevent its recurrence or escalation;
- (c) giving evidence in cases where legal action has been taken to tackle the alleged antisocial behaviour when required by a partner agency; and
- (d) responding to reported breaches of ASBOs and interim ASBOs.

7.2 Although the lead role in the process of investigating allegations of antisocial behaviour will be taken by the Council or one of the RSLs, the investigative process can be initiated by any of the partner agencies who wish to inform partner agencies of:

- (a) an allegation of antisocial behaviour made against a specified person or persons;
- (b) the background to alleged antisocial behaviour (including the circumstances of the person said to be responsible for the alleged antisocial behaviour); or
- (c) any other information which may be relevant in relation to alleged antisocial behaviour.

7.3 Prior to making any application to the court for an ASBO, the Council or the RSL seeking the ASBO must first comply with the obligations imposed upon them by section 4(11) of the 2004 Act in relation to the consultation and notification of specified persons.

- 7.4 The Council has a duty to establish and maintain a record of all ASBOs granted in their area. Other Local Authorities, the Police, the Principal Reporter and any RSL have the right to request the information held on the record. This will allow any of these bodies to check whether an ASBO has been granted in relation to anyone with whom they are dealing.
- 7.5 The partner agencies agree that regular contact between them, coupled with the sharing of relevant information, facilitates the early identification of cases involving antisocial behaviour and the prompt taking of appropriate measures to prevent the escalation or recurrence of the behaviour complained of.

B. INFORMATION SHARING IN OPERATION

8. SIGNATORIES

- 8.1 The signatories to this protocol are:

The North Ayrshire Council (Housing Services, Legal & Protective Services, Social Services, Educational Services and Environmental Health Services);
Strathclyde Police;
Scottish Children's Reporter Administration;
Crown Office and Procurator Fiscal Service;
NHS Ayrshire & Arran;
Irvine Housing Association Limited;
Cunninghame Housing Association Limited; and
Ayrshire North Community Housing Organisation Limited.

9. IN WHAT CIRCUMSTANCES CAN INFORMATION BE SHARED?

- 9.1 Information can be shared between partner agencies where they are legally empowered to do so and provided that the disclosure can be made in accordance with the Data Protection Act 1998 such as where, for example:
- The Council or one of the RSLs is investigating and gathering evidence of alleged antisocial behaviour by a person or persons with a view to taking appropriate action to deal with that individual's antisocial conduct and to prevent the escalation or recurrence of it; or
 - Strathclyde Police are seeking information to prevent or detect crime or for the purposes of investigating suspected criminal conduct; or
 - Additional information is being sought by the Scottish Children's Reporter Administration in respect of a child who is already the subject of a referral to the Reporter; or
 - Information is required to inform and assist in the development of strategy in relation to antisocial behaviour e.g. for statistical analysis purposes.

10. WHAT INFORMATION CAN BE SHARED?

- 10.1 This protocol is intended to facilitate and encourage the proactive sharing of information between the partner agencies for the prevention and detection of antisocial behaviour. All of the partner agencies are expected to share information both in response to a direct request in terms of this protocol and proactively. Partner agencies are expected to bear in mind the importance of ensuring that all relevant evidence is made available as soon as possible to any partner agency which is conducting an investigation into an individual's alleged antisocial behaviour, in order that the most appropriate form of action is taken to deal with that person's behaviour and prevent its escalation or recurrence.

- 10.2 The information supplied by one partner agency to another should be relevant, accurate and should not be excessive in relation to the purpose for which it is required. Every request for the disclosure of information must be considered on its own merits.
- 10.3 When a partner agency is considering a request for information disclosure from, or volunteering information to, another partner agency, careful regard must be had to the legislative framework detailed in paragraph 3 of this protocol and that agency's own internal guidance in order to determine whether the information requested or volunteered may lawfully be disclosed for the purposes for which it has been sought or will be put.
- 10.4 In general, it is expected that all partner agencies will disclose all relevant information held by them to another partner agency which has requested that information where that disclosure would be lawful for the purposes for which it has been requested, unless there is an overriding legal or operational reason for not disclosing that information or any part thereof.
- 10.5 If a partner agency refuses to disclose information to another partner agency which has made a request for information to be disclosed it shall, where possible, state why the information requested has not been provided.
- 10.6 The Police can proactively seek assistance from the Council or any of the RSLs by identifying and providing information in relation to individuals who are the alleged perpetrators of antisocial behaviour or criminal activity, and that either to assist the Council or an RSL with an ongoing investigation or to alert the Council or an RSL to alleged antisocial behaviour which may warrant investigation by them.

11. THE INFORMATION SHARING PROCESS

11.1 THE AUDIT TRAIL

An audit trail of information given and received must be created and preserved in respect of all information disclosures and exchanges. Caseworks is the principal means of exchanging information and proper use of it will automatically generate such an audit trail in respect of all information disclosures and exchanges made thereon.

In the case of oral disclosures and exchanges, a contemporaneous note must be made by any member of a partner agency's staff who has either given or received information concerning antisocial behaviour. The note made must contain details of the information given or received, the purpose for which it was given or received, the name and designation of the person to whom the information was given or from whom it was received, and the time, date and place at which the information was given or received. Any decision not to disclose information must also be recorded, together with the reasons for the decision.

In the case of police officers, such notes must be made in their official notebooks, or on Caseworks. Members of staff of all other partner agencies must make file entry notes, which must thereafter be preserved.

11.2 DESIGNATED OFFICERS

Each partner agency must appoint a Principal Designated Officer ('PDO') and up to two Designated Officers ('DO'). PDOs and DOs will have a co-ordinating and authorising role in relation to the requisition, disclosure and sharing of information by that agency.

The specific responsibilities of the PDO vary from agency to agency but will, in addition to performing the duties of a DO as set out below, include the following:

- (a) Ensuring that all DOs and other staff are fully aware of their responsibilities;
- (b) Appointing other staff in the partner agency to act as PDO in their absence;

- (c) Authorising that partner agency's involvement and co-operation in the information sharing process, at every stage;
- (d) Ensuring that the appropriate members of that partner agency's staff attend all case conferences and other meetings to which they are invited, or that appropriate written responses are issued to the partner agency responsible for convening any such conference or meeting; and
- (e) Keeping a Protocol Co-ordination Folder, which holds all the partner agency's information sharing documents in general (including, without prejudice to the foregoing generality, this protocol, any amendments thereto and any guidelines issued in respect thereof) and which should be available to all relevant staff.

The specific responsibilities of DOs shall vary from agency to agency, but shall include the following:

- Acting as that partner agency's PDO, whenever necessary;
- Assisting the PDO with training and supervision of that partner agency's staff in respect of information disclosure;
- Receiving all requests for information disclosure from partner agencies and ensuring that appropriate enquiries are made in order to gather the requisite information;
- Checking all information which it is proposed to disclose to a partner agency to ensure that the information may lawfully be disclosed for the purpose stated, and that there is no good reason for refusing to disclose it in whole or in part;
- Making the response to an information request from a partner agency, be that orally, in writing, or by means of Caseworks;
- Inputting data on behalf of that partner agency into Caseworks, either proactively or in response to a request for information disclosure.

11.3 THE MEANS OF SHARING INFORMATION.

Information will be shared in the following ways:

- (a) By means of Caseworks, to which all partner agencies apart from the Crown Office and Procurator Fiscal Service have subscribed. In this protocol, the partner agencies who have subscribed to Caseworks shall be referred to as 'the subscribers';
- (b) Orally, at case conferences, other meetings or by telephone; and
- (c)** In writing; and
- (d) Only in so far as the Crown Office and Procurator Fiscal Service are concerned, by e-mail.

11.4 THE CASEWORKS SYSTEM.

It is expected that most of the day to day sharing of information between the partner agencies will be by means of Caseworks. Each subscriber has supplied one or more PCs to act as local terminals in order that they may access the central server on which the Caseworks database is held. Each subscriber will be provided with the necessary software to install on their local terminals in order to run Caseworks.

Access to Caseworks is limited to each subscriber's PDO, DOs and any other member of staff whom a subscriber gives access rights to. Each of the subscribers will be provided with a token issued by the Council's Housing Services ('Housing') and the PDO, DOs and all other Caseworks users of that subscriber will be provided with their own unique password. This token and password, both of which will be changed at reasonably frequent intervals, must be used together in order to log onto the system.

Each of the subscribers is obliged to take such steps in respect of training, vetting and monitoring of their staff in order to ensure:

- a. that no employee or person within their premises has access to Caseworks unless properly authorised; and

- b. that the data held on the system is not compromised nor made available to any person who has no authority to access the information.

It is imperative that any Personal Computer on which the Caseworks software is installed is not left unattended with the software running, unless protected by a password-enabled screensaver or physical access to that Personal Computer is prevented. Every authorised Caseworks user of a subscriber will have his or her own unique screensaver password which must be changed at reasonably frequent intervals. Every subscriber must ensure that their authorised Caseworks users log out of Caseworks when it is not in use by them.

Use of Caseworks

Each subscriber will have the facility to enter data into the Caseworks database in respect of any individual whose details are held thereon. Data entry will be by means of an input screen specific to each subscriber and tailored to their requirements.

Selected subscribers to Caseworks will be able to create new cases on the system. All subscribers, subject to the access rights given to them by other subscribers, will be able to retrieve and input information in relation to cases already on the system. Information is to be stored on and retrieved from Caseworks for the specific purpose of dealing with antisocial behaviour.

It will be possible for each subscriber to limit access to data which they have input (whether that data is fresh or updated) to themselves only or to any one or more of the other subscribers, except that the name, address and date of birth of each person whose details are entered onto the system by any subscriber must be viewable to all subscribers.

Each subscriber will be able to bring information, which they have input into Caseworks, or updated thereon, to the notice of any other subscriber by configuring the system to allow an alert message to be sent to such other subscriber or subscribers as they consider to be appropriate.

Caseworks is intended as a repository of information for use by the subscribers for the purposes of dealing with antisocial behaviour. Although it is intended to be the principal means by which information is requested, disclosed and exchanged, it does not, nor is it intended to, replace all other means of contact and information disclosure or exchange between the partner agencies.

11.5 MULTI-AGENCY CASE CONFERENCES.

Multi-agency case conferences will be arranged by NAC Housing Services at monthly intervals. The purpose of such multi-agency case conferences will be to enable all partner agencies who have information concerning a specific person to contribute to a discussion regarding allegations of antisocial behaviour made against that person, with a view to ensuring that all necessary measures in terms of support, prevention and resolution are explored and implemented as required. Effective use of the multi-agency case conference procedure by the partner agencies will ensure that appropriate, informed decisions are made in each case under investigation. Attendance at multi-agency case conferences may include agencies other than those defined as relevant authorities in the 2004 Act. Each agency present will be responsible for ensuring that they are entitled to share information with those present.

The multi-agency case conference process will be co-ordinated by NAC Housing Services in terms of the selection of cases for discussion and the date and venue of the multi-agency case conference. Any partner agency who wishes a specific case to be considered at a multi-agency case conference must submit details to NAC Housing Services of any case which they wish to have included on the agenda for a prospective multi-agency case conference. All such submissions must be made in writing and must contain such relevant details of the case as are available to that agency.

Invitations and other correspondence regarding multi-agency case conferences must only be addressed to the PDO or one of the DOs of a partner agency.

Once NAC Housing Services have compiled an agenda for a multi-agency case conference, a copy of that agenda shall, together with details of the time, date and venue of the multi-agency case conference and a link to all of the cases which are to be discussed at the multi-agency case conference, be sent to each of the partner agencies by means of Caseworks. The PDO or DO of each partner agency invited shall be responsible for ensuring that the invitation and agenda is intimated to each of the persons in that agency who may be best able to provide information on any or all of the cases listed on the agenda accompanying the invitation.

Each partner agency shall be represented at every multi-agency case conference to which they have been invited if they have had any relevant involvement with, or hold relevant information about, any of the persons in respect of whom the multi-agency case conference has been convened. If a partner agency has had no involvement with, and holds no relevant information about, any such person then that agency shall not be obliged to attend the multi-agency case conference, but must instead inform either the PDO or one of the DOs at NAC Housing Services of that fact in advance of the multi-agency case conference.

A partner agency may be excused from attending a multi-agency case conference without providing a written report in lieu thereof IF AND ONLY IF exceptional circumstances preclude them from doing so. In such event, it shall be open to the other partner agencies attending the multi-agency case conference to adjourn to a subsequent multi-agency case conference (which may be fixed outwith the usual schedule for multi-agency case conferences) any or all of the cases in respect of which the absent partner agency had been invited, and the absent partner agency will be obliged to attend any multi-agency case conference at which any or all of the adjourned cases are to be discussed.

At a multi-agency case conference, each partner agency shall provide to the relevant partner agencies all relevant information, which may be lawfully disclosed and is held by them in respect of the cases listed on the agenda. In the event that a partner agency is unable to be represented at a multi-agency case conference, that partner agency shall advise the PDO or one of the DOs at NAC Housing Services of their inability to attend and shall, in advance of the multi-agency case conference, lodge a written report with the PDO or one of the DOs at NAC Housing Services, giving such relevant information as that partner agency has in relation to the cases listed on the agenda.

Multi-agency case conferences will be normally be chaired by NAC Housing Services, but may on a case to case basis be chaired by another partner agency if that is more appropriate in the circumstances of the case. A member of NAC Housing Services staff shall attend each multi-agency case conference in the capacity of minute taker. A formal Minute shall be taken at each multi-agency case conference and shall be circulated to each of the partner agencies for consideration and revisal in advance of the next scheduled multi-agency case conference. At each multi-agency case conference, agreement and endorsement of the Minute taken at the previous multi-agency case conference, and any revisals made thereto, shall form part of the agenda.

All requests made for information disclosure under The Freedom Of Information (Scotland) Act 2002 in respect of information supplied to or discussed at a multi-agency case conference shall be dealt with by the partner agency to whom such a request is made. Any partner agency receiving such a request shall advise the other partner agencies who were present at the case conference in question of the fact that a request for information disclosure has been made to them.

11.6 DISCLOSURE & EXCHANGE OF INFORMATION BETWEEN PARTNER AGENCIES

11.6.1 General Procedures

In all instances where a partner agency makes a request for information to be released, that request should, where possible, include the name, address and date of birth of the person in respect of whom the information is sought, details of the purpose for which the information is sought, and such information as the partner agency requesting the information has of any involvement that person has had with the partner agency from whom the information is sought.

A partner agency to whom a request for information disclosure has been made by another partner agency shall provide a substantive response to that request as soon as possible after receiving it,

and in any event within 14 calendar days of the date of the receipt by them of the request (which period of 14 calendar days is referred to throughout this protocol as “the time-limit”). In the event that a partner agency is not able to supply the information requested within the time-limit, they shall advise the partner agency which has made the request that there shall be a delay and shall at the same time advise of the date by which the information sought should be provided.

In the case of requests for urgent disclosure of information, the partner agency to whom the request has been made must take all reasonable steps to respond to the request within the required time.

A partner agency making a request for information disclosure is expected to give as much notice as may in the circumstances be possible of all information which that agency may require in connection with court proceedings arising from antisocial behaviour. If a request for urgent disclosure of information is made by a partner agency, the fact that the request is urgent in nature must be clearly stated to the partner agency to whom the request is made.

In the event that a partner agency decides not to disclose information in response to a request for disclosure, the partner agency from whom the request originates shall be advised of the decision not to disclose, and that just as soon as may be possible and in any event within the time-limit.

11.6.2 Specific Procedures

Due to the number and diversity of the partner agencies, it is not possible to construct a universally applicable set of procedures for requesting, disclosing and sharing information. It is, however, possible to separate the partner agencies into six categories:

- A. Strathclyde Police;
- B. North Ayrshire Council;
- C. The Crown Office and Procurator Fiscal Service;
- D. NHS Ayrshire & Arran;
- E. Scottish Children’s Reporter Administration; and
- F. All other partner agencies

(A) Strathclyde Police

Information may be sought from the police by a partner agency in relation to an allegation of antisocial behaviour at any stage of that partner agency’s investigations.

Where a partner agency wishes to request the disclosure of information from Strathclyde Police, it must be made by means of Caseworks in order to ensure that all requests, particularly those of an urgent nature (e.g. in the lead up to court action), are received and processed promptly by the police.

The PDO, or one of the DOs, of the police will respond to this request by completing a ‘Disclosure’ form, having first satisfied themselves that the information, which they are providing, is both accurate and relevant to the enquiry. Responses to information requests may initially be provided by the police through Caseworks, in order to enable the prompt processing of cases in which court proceedings have been taken or are about to be taken. If a partner agency intends to apply to the court for an ASBO, it shall advise the police of that fact by means of Caseworks. In such event, the police will, as soon as possible thereafter, furnish the partner agency in question with a written ‘Disclosure’ form for use in connection with the prospective ASBO application.

(B) The North Ayrshire Council

All requests made by partner agencies to the Council for information concerning alleged antisocial behaviour by a named individual shall be made to the PDO or one of the DOs of the Council Service (i.e. Housing Services, Social Services, Educational Services, Environmental Health or Legal & Protective Services) from whom the information is sought. A copy of the request for information must be sent by the partner agency making the request to the Manager of the Council’s Antisocial Behaviour Investigation Team.

Requests for information made to a Council Service may be made in writing, but it is preferred that all such requests are made through Caseworks.

The PDO or a DO of any Council Service which receives a request for information shall be responsible for making such enquiries of that Service's staff as are necessary to establish:

- (i) whether that Service has information regarding the person whose alleged behaviour is the subject of the request; and
- (ii) whether such information is relevant for the purposes for which it is sought.

(C) The Crown Office and Procurator Fiscal Service (COPFS)

THE ROLE OF THE COPFS

The COPFS is not a partner agency or principal signatory in terms of the protocol. It is a signatory to the terms of the protocol to the extent that it is agreed that Procurators Fiscal (or the PF at Kilmarnock) will provide case progress information, reactively, in response to requests received from local authorities and RSLs, and in so far as the protocol sets out standards about the use and retention of shared information.

For the purposes of the pilot, Procurators Fiscal will consider requests from North Ayrshire Council and Irvine Housing Association Limited, Cunninghame Housing Association Limited, and Ayrshire North Community Housing Association Limited which are submitted by e-mail to the address to be specified.

PROCEDURE FOR MAKING REQUESTS FOR INFORMATION TO COPFS

ISCJIS

All case progress information about cases reported to the COPFS can be accessed via the ISCJIS (Integration of Scottish Criminal Justice Systems). Accordingly, all parties should endeavour to obtain necessary information from ISCJIS in the first instance before making a request directly to the Procurator Fiscal. If parties are unable to obtain direct or indirect access to ISCJIS, they may make an e-mail request to the Procurator Fiscal for relevant case progress information.

Requests for case progress information

All such requests must include either,

- (i) the relevant PF reference number; or
- (ii) the police reference number.

Every case dealt with by the police has a police reference number and once a case is reported to the Procurator Fiscal it will be allocated a PF reference number as well. The police may also have details of this PF reference number and both the PF reference and Police reference should be available with the other case information held on the database to allow all users to accurately request information.

Requests should be case or instance specific i.e. relating to a particular incident reported to the Police and not a general inquiry e.g. relating to all outstanding cases for a named individual. The request should feature the police case reference number(s) (and, if possible, the PF case reference number also) of the matter in question only and should not refer to individuals by name, address or date of birth.

All requests for information must be made on the appropriate form by e-mail to the ASB mailbox address operated by COPFS.

In exceptional circumstances, it may be possible to consider requests which do not feature a relevant reference number and/or which are made by fax or in writing. Such requests should detail the exceptional circumstances justifying departure from the standard procedure.

Sharing information provided by COPFS

Parties who obtain case progress information from COPFS must ensure that it is made available to other partner agencies via the Caseworks database to avoid a duplication of requests for the same information.

Timescale for dealing with requests for case progress information

Requests for case progress information will receive a reply by e-mail as soon as practicable, and, in any event, within 14 days of the date on which the request was made. In respect of urgent requests, these should clearly state this fact and the reason for the urgency as well as a indication of when a response is required. As far as possible, urgent requests will be dealt with within the specified time for receipt of a response. Partner agencies should avoid urgent requests where possible.

Audit Trail

At all stages of this process, an audit trail of information requested, given and received shall be made and retained, as set out in paragraph 11.1.

Case Conferences

The Procurator Fiscal will not routinely attend case conferences. Where partner agencies consider that it would be helpful to have a member of staff from the COPFS attend a case conference or other such meeting between partner agencies, an approach should be made in writing to the relevant Procurator Fiscal. In each case, an explanation should be given as to why the further discussion with or involvement of the Procurator Fiscal is sought. This will assist the Procurator Fiscal in deciding whether it is appropriate to meet with the partner agency(ies).

(D) NHS Ayrshire & Arran

NHS regulations for the sharing of information to tackle antisocial behaviour are different to those of the Police and Local Authorities. In most cases, the Health Service can only share information about a patient when verbal or written consent has been given by that individual. However, in some circumstances, the NHS will agree to release patient specific data by the issue of a Court Order, where there is a legal requirement to do so or if there is an issue of major public concern such as public health and safety. In these cases only the minimum necessary information will be shared.

(E) Scottish Children's Reporter Administration

Caseworks will be used by SCRA in order to obtain and exchange relevant information about children only where they have been referred to the Reporter. The Reporter will not treat information submitted by partner agencies via Caseworks as a referral of a child. Partner agencies must continue to refer children to SCRA in the usual manner. Caseworks will not replace the existing processes for exchanging information between SCRA and partner agencies.

(F) Other Partner Agencies.

Unless otherwise stipulated in paragraphs 11.6.2 (A) to 11.6.2 (E), all written requests for information from the partner agencies should be made either to that agency's PDO or one of its DOs.

The PDO or DO of a partner agency to whom a request for information disclosure is made shall be responsible:

- (a) for making such enquiries of that agency's staff as are necessary to establish whether that agency has information regarding the person whose alleged behaviour is the subject of the enquiry, and whether such information is relevant for the purposes for which it is sought; and
- (b) for ensuring that a timeous response is provided to the request for information made by a partner agency.

Signature(For North Ayrshire Council)

Signature(For Strathclyde Police)

Signature.....(For NHS Ayrshire & Arran)

Signature(For The Crown Office &
Procurator Fiscal Service)

Signature(For Scottish Children's
Reporter Administration)

Signature(For Irvine Housing
Association Limited)

Signature(For Cunninghame Housing
Association Limited)

Signature(For Ayrshire North
Community Housing
Organisation Limited)