

The role of judges, social services, and central authorities

confidentiality

**Data
Protection**

standards

**International
European
National**

**Transnational
Cooperation**

challenges and
solutions



CHILD CENTRE
Centre for cooperation in
child care, 2002



25th November
Stockholm

**Counter
Human Trafficking
Bureau Ltd**

Law and Rights

United Kingdom Data Protection Law:

Data Protection Act 1998.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Data Protection Act 1998.

Key points

- Under Article 8 of the ECHR, a right to protection against the collection and use of personal data forms part of the right to respect for private and family life, home and correspondence.
- CoE Convention 108 is the first international legally binding instrument dealing explicitly with data protection.
- Under EU law, data protection was regulated for the first time by the Data Protection Directive.

A right to protection of an individual's private sphere against intrusion from others, especially from the state, was laid down in an international legal instrument for the first time in Article 12 of the United Nations (UN) Universal Declaration of Human Rights (UDHR) of 1948 on respect for private and family life.¹ The UDHR influenced the development of other human rights instruments in Europe.

Information sharing, confidentiality and consent

CHILD PROTECTION

- **Children's Social Care will accept a referral about a child regardless of whether consent has been given.**
- Children's Social Care will firstly assess the child to see if the child is in need (Section 17, Children Act 2004) of a service and or is in need of protection (Section 47, Children Act 2004).
- **Information must be collected from agencies who know the child for these decisions to be made and consent is not required for this activity. These are statutory requirements under the Children Act and thus covered by the Data Protection Act 1998, Schedules 2 and 3.**
- Consent is needed for a service to be offered. So where a child is clearly a “child in need” of a service then the first action for Children's Social Care must be to obtain consent, unless of course it has been obtained earlier in the process.
- **When a child is assessed as in need of protection then consent to share information between agencies remains desirable but is not essential. The safety of the child is paramount.**

Challenges

- Complex Laws
- Limited understanding the law
- Fractured channels of communication between organisations working in different countries
- Concern of legal action against an organisation

Options for Solutions

Child Protection Priority

- Where there is a risk of harm ask for information and if asked for information share

Consult

- Agreed local and national procedures developed with partner agencies
- Shared operational priorities

International

- Aligned international operational procedures based on common child protection procedures

Training

- Roles and responsibilities
- Simply defined triggers covering when and how to share information