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CRIME & DISORDER PARTNERSHIP PROTOCOL

**JOINT APPROACH TO REDUCE CRIME
AND DISORDER AND IMPROVE
COMMUNITY SAFETY ISSUES**

2008

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WARWICKSHIRE CRIME, DISORDER AND ANTI-SOCIAL BEHAVIOUR

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Section 1

1.1 Purpose of this Protocol

1.1.1 This Protocol is an agreement between Partner Organisations specifically to facilitate and govern sharing of information relating to the prevention, detection and reduction of Crime and Disorder.

1.1.2 The purpose of this protocol is to facilitate the exchange of information in order to develop and implement the following:

- a) to comply with the statutory duty on chief police officers and local authorities under the Crime and Disorder Act 1998 to work together to develop and implement a strategy and tactics for crime reduction.
- b) under any provision of the Crime and Disorder Act
- c) helping to implement the 5 Warwickshire CDRP Crime Reduction Strategies. Links as follows:

Nuneaton & Bedworth - <http://www.nuneaton-bedworthbc.gov.uk/freedominfo/documents/504bvpp20062007.pdf>.

North Warwickshire - http://www.northwarks.gov.uk/site/scripts/download_info.php?fileID=1026

Rugby - http://www.rugby.gov.uk/site/scripts/documents_info.php?documentID=661

Stratford on Avon - <http://www.stratford.gov.uk/community/community-656.cfm>

Warwick - <http://www.warwickdc.gov.uk/WDC/Community+and+living/Community+safety/default.htm>

- d) **for the purpose of tackling Anti-Social Behaviour, for example drafting an Acceptable Behaviour Contract and applying to the Magistrate's Court for an Anti-Social Behaviour Order.** The above information sharing has the legal basis of Section 115 of the Crime and Disorder Act 1998, as amended by the Police Reform Act 2002 and the Housing Act 2004 (Section 219).
- e) **information sharing between the Partner Organisations for the purpose of implementing the Government's Prolific and Other Priority Offender Strategy.** This protocol is designed to help prevent and deter, catch and convict and rehabilitate and resettle the most prolific offenders within our communities. These are all legitimate aims, which fall under the

responsibilities outlined within the Crime and Disorder Act. The above information sharing has the legal basis of Section 115 of the Crime and Disorder Act 1998, as amended by the Police Reform Act 2002.

- f) **applications for Information by a Local Authority or Housing Association, for the purposes of considering applying for a possession order in order to evict a tenant.** The application above has the legal basis of Section 84(1), Schedule 2, Ground 2 Housing Act 1985 as amended by Section 144 and 145 Housing Act 1996, and Section 152 and 153 Housing Act 1985. **Note – These Sections only give a local authority or housing association reasons for asking for information.**

- g) **applications for Information by a Local Authority or Housing Association, for the purposes of determining an application for persons made homeless by threat of violence or harassment.** The application above has the legal basis of Section 184 of the Housing Act 1996, in respect of Section 10 of the Homelessness Act 2002. **Note – These Sections only give a local authority or housing association reasons for asking for information.**

Section 2

2.1 The Protocol

- 2.1.1 This Protocol has been written specifically for the purpose specified in section 1.1.

- 2.1.2 **This Protocol must be read in conjunction with the general overarching Warwickshire Sharing of Information Protocol to which the Partner Organisations have confirmed full compliance.**

2.2 Background

- 2.2.2 **Crime and Disorder Act 1998**

- 2.2.3 This protocol is recommended to the relevant authorities and those acting on their behalf), as described in the Crime and Disorder Act 1998, as the vehicle to be used in establishing clear lines of communication and procedures for the exchange of information in order to tackle root causes of crime and disorder.

- 2.2.4 Applications for an Anti Social Behaviour Order (ASBO) may be made to a Magistrates Court by relevant authorities, which include Local Authorities, Police and Housing Associations by virtue of the *Police*

Reform Act 2002. All these parties and others may also be involved in the drafting of an Acceptable Behaviour Contract (ABC). Under section 115 of the Crime and Disorder Act, Warwickshire Police and the relevant Local Authority may share information with each other and other relevant authorities so that they may make such an application. This is subject to compliance with other legislation and duties such as Human Rights, Data Protection Act etc.

- 2.2.5 Section 115 provides the lawful power for anyone to disclose information to a relevant authority – the police, police authority, social landlords, local authority, probation committee or health authority, or to any designated persons acting on their behalf – where this is necessary or expedient for the purposes of a provision of the Act. By virtue of the participation of the signatories to this agreement in the 5 Warwickshire CDRP's strategies for the reduction of crime and disorder, they are, for the purposes of data sharing outlined in this protocol, deemed to be persons acting on behalf of the relevant authorities in accordance with Section 115.
- 2.2.6 The signatories to this Protocol are persons/organisations that have been invited by the responsible authorities represented on the 5 Warwickshire CDRPs to participate in the exercise of the obligations set out in Section 6 of the Crime and Disorder Act 1998. That is to formulate and implement, for each relevant period, a strategy for the reduction of crime and disorder in the county.
- 2.2.7 Section 115 does not, however, override the need to disclose in a proper manner, taking into account other statutory and common law constraints on disclosure, including data protection, human rights and the common law. This Protocol puts in place sound arrangements for information sharing, so as to be clear about the process involved and the type of information to be shared to ensure compliance with data protection legislation.
- 2.2.8 Housing Act 1996**
- 2.2.9 This Information Sharing Protocol should comply with the requirements of Section 10 of the Homelessness Act 2002, Section 184 of the Housing Act 1996 and amendments to the Crime and Disorder Act 1998 by the Police Reform Act 2002.
- 2.2.10 Homelessness Act 2002**
- 2.2.11 Section 184 of the Housing Act 1996 states that Partner Organisations may make '*such enquires as are necessary*' to establish whether parties applying as homeless persons for re-housing are eligible. Section 10 of the Homelessness Act 2002, extends the 'priority groups' for re-housing to include those who have been made homeless by being the subject of violence, the threat of violence or harassment..

2.3 Procedures

2.3.1 General Procedures

2.3.1.2 Partner Organisations must ensure the annual Data Protection Act 1998 Notification is reviewed and completed. All relevant parties to the Protocol shall undertake to check its Registration with the Information Commissioner, to ensure that it is appropriately registered for sharing and receiving personal information for the purposes of Crime Reduction, naming the Police service as a likely recipient and source of personal data. For more details visit www.dpr.gov.uk.

2.3.1.3 Where sensitive information is to be shared, explicit consent of the Individual/Guardian must be obtained **OR** reliance is put on the "protection of vital interests" justifications in Schedules 2 and 3 of the Data Protection Act 1998

2.3.2 Review Procedures

2.3.2.1 The Protocol review is to be undertaken jointly by officers agreed by the Partner Organisations unless agreed by the Partner Organisation for a single Partner Organisation to undertake the review. This work will be co-ordinated by the Warwickshire Community Safety Partnership & Drug and Alcohol Team (WCSP & DAAT). At each review date the WCSP & DAAT will pull together a review group made up of DOs and identify operational problems, new legislation and highlight any proposed amendments to be agreed.

2.3.2.2 The review findings must be reported, in writing, at the next meeting of Partner Organisations or after one calendar month, whichever is the sooner.

2.3.2.3 The Partner Organisation must discuss the review, approve any resulting actions and approve an implementation plan.

2.3.2.4 Partner Organisations must agree to implement the action plan within the approved time scale.

2.3.3 Security Documents

2.3.3.1 Crime and Disorder Exchanges: All requests for information exchange for a specific purpose covered by the Crime and Disorder Act 1998 will take place in writing between Designated Officers. Only DOs (Designated Officers) and PDOs (Primary Designated Officers) can

make formal requests and document agreements for the sharing of personal information. The request may be a request for information or an inter-agency or multiagency meeting.

2.3.3.2 The request will be written on agency headed notepaper (or contained within a secure email), and will set out

- What information is required
- What the purpose of the exchange is (related to the relevant crime and disorder strategy)
- On what grounds the individual's consent has been overridden (e.g. seeking consent would jeopardise the public protection, crime prevention or detection objectives of the disclosure)
- Where consent has been sought and given, the evidence of this should be provided.

2.3.3.3 The Designated Officer will log the request and make a note of the reasons for making the disclosure. Where the request is denied, the Designated Officer will also log the reasons for denying the request. The exchange will take place within ten working days (fourteen days), unless the situation is more urgent. If the situation is more urgent then the reasons for the urgency of the case will be made known and the request dealt with as quickly as practicable.

2.4 Designated Officers

2.4.1 In order to ensure that information is exchanged in the most efficient, effective and secure manner, the **Partner Organisations** will select and appoint **Designated Officers (DO)**. If a Partner Organisation has a Data Protection / Information Sharing Coordinator that oversees all information sharing issues, the DO will liaise with them where appropriate. DOs will assume responsibility for data protection issues; security and confidentiality; compliance with legislation; auditing and monitoring and complaints. Each Partner Organisation may put forward more than one Designated Officer for different information sharing roles. However, if it is deemed by Partner Organisations that a new distinguishable information sharing purpose has been created a new Designated Officer list for that particular purpose may be added as an Appendix to this document.

2.4.2 A person requesting information from another Partner Organisation should submit the inquiry through a Designated Officer. A reply should be made within ten working days. The request must be in writing and ideally in the relevant format. The request must be transmitted in a secure way. The source of the request will be tested periodically by the DO to ensure authentication of requestor. This may be done via a phone call to the DO. In addition it is good practice to keep a log of information shared.

2.5 Personal Information

2.5.1 Human Rights Legislation

2.5.1.1 Partners have a duty of care to share information. However, the Human Rights Act 1998 gives effect to certain Articles in the European Convention on Human Rights and requires all domestic law to read compatibly with the Convention Articles. This protocol recognises that the sharing of information has the potential to infringe a number of Convention Rights.

2.5.1.2 The Convention does allow interference of rights, known as legitimate aims.

ECHR Article 8 states that everyone has the right to respect for their private and family life, his home and his correspondence and that there shall be no interference by a public authority with his right except as in accordance with the law and is necessary in a democratic society in the interests of:

- national security
- public safety
- economic well being of the country
- the prevention of crime or disorder
- protection of public order
- the protection of health or morals
- the protection of the rights or freedoms of others.

2.5.1.3 However, the following principles should be considered:

- Is there a legal basis for the action being taken?
- Does it pursue a legitimate aim?
- Is the action taken proportionate and the least intrusive method of achieving that aim?

2.5.2 Data Protection

2.5.2.1 The Data Protection Act 1998 governs the way personal data are processed, regardless of format (including computerised data, CCTV images, relevant manual filing systems etc), and gives living individuals rights and protection of their information according to eight Data Protection principles.

2.5.2.2 Briefly these principles say that personal data should be:

- Processed fairly and lawfully
- Only for specified purposes
- Adequate, relevant and not excessive
- Accurate and kept up to date
- Not kept for longer than necessary
- Processed in accordance with individuals rights
- Held securely

- Not transferred where there is no adequate protection

2.5.2.3 To process personal data, a justification has to be found in Schedule 2 of the Act, or in Schedule 2 and Schedule 3 in the case of sensitive data. Please refer to 2.6.6.5 for a definition.

2.5.2.4 Partner Organisations undertake that Schedule 2 of the Data Protection Act 1998 will be satisfied where it is necessary to process personal data.

2.5.2.5 Sensitive data covered by Schedule 3 should be treated with a higher degree of security and confidentiality than other personal data. Sensitive data includes information about an individual's:

- Racial or ethnic origin
- Political opinions
- Religious or other beliefs
- Trade union membership
- Physical or mental health
- Sexual life
- Offences, or alleged offences
- Criminal offences / previous convictions

2.5.2.6 Partner Organisations undertake that Schedule 2 and Schedule 3 of the Data Protection Act 1998 will be satisfied where it is necessary to process sensitive data.

2.5.3 Crime and Disorder Act 1998

2.5.3.1 Where the disclosure of information is necessary or expedient for the purposes of any provision of the Crime and Disorder Act 1998, Section 115 ensures all agencies have a power to disclose personal information to "relevant organisations" and those acting on their behalf. It does not impose a requirement on them to exchange information, control remains with the agency that holds the data.

2.5.3.2 For the Police in Warwickshire this might include but is not restricted to information held on the Police National Computer (PNC), or STORM.

2.5.3.3 Where it is thought necessary or expedient to exchange data to carry out the objectives of the Crime and Disorder Act 1998 a power to disclose exists in the following situations:

a) Public Interest

If consent has not been sought, or sought and withheld, the agency must consider if there is an overriding public interest of justification for the disclosure. Responsibility for considering disclosure in these

circumstances rests with the disclosing authority. In the event of doubt the **Partner Organisation** should obtain legal advice.

The rule of proportionality should be applied to ensure that a fair balance is achieved between the public interest and the rights of the data subject.

b) Non-disclosure Exemptions

Personal Data can be exempt from the non-disclosure provisions of the Data Protection Act 1998. Section 29 of the Data Protection Act 1998 exempts data controllers from complying with the first data protection principle (apart from compliance with schedule 2/3) in relation to the sharing of personal/sensitive personal information. Section 29 exempts the sharer from the duty to process the data fairly (which relates largely to informing the data subject of the purposes for which the data is being shared) where doing this would be likely to prejudice:

- i. the prevention or detection of crime,
- ii. apprehension or prosecution of offenders, and compliance with the data protection principle would be likely to prejudice those objectives.

In these cases the data are exempt from the first data protection principle (but compliance with Schedules 2 and 3 continues to be necessary). Decisions must be made on a case-by-case basis. Any request for information whose purpose is the prevention or detection of crime should specify as clearly as possible how failure to disclose would prejudice this objective. The request should make clear:

- why the information is necessary, e.g. why proceedings might fail without the information;
and
- why it is envisaged that a successful action would prevent crime, e.g. what is the projected effect of successful proceedings?
- It should be noted that Section 35 of the Data Protection Act can also provide a legal gateway.

2.6.1. Extent of Personal Data Disclosed

2.6.1.1 The Designated Officer must assess on a case by case basis:

- a. why a disclosure is necessary to support action under the Crime and Disorder Act;
- b. why the public interest is of sufficient weight to override the presumption of confidentiality; and

- c. whether the information is being processed fairly and in line with the provisions of the Data Protection Act and any other relevant legislation.

The grounds upon which a disclosure is based should then be recorded on the request. This recording may not be necessary where regular information sharing is being undertaken under an existing form.

2.6.2 Homelessness Act 2002

2.6.2.1 Disclosure of information to the Partner Organisation will be on a case-by-case basis. The information disclosed will be **expressly** limited to:

- a. A summary of all visits to the premises as a result of relevant complaints or otherwise;
- b. A summary of any relevant incidents witnessed by Partner Organisation representatives;
- c. Details of any criminal conviction of the applicant involving relevant incidents. The offender and offences must be directly linked to reasons for the application to the relevant authority for housing or nominee. For example, if the applicant is applying for assistance for the reason of being forced into homelessness by threat of violence, any offence of violence that party has committed, or has had committed against them, may be relevant to the assessment of eligibility for re-housing.

2.6.3 Housing Act 1985 and 1996

2.6.3.1 Disclosure to the Partner Organisation will be on a case-by-case basis. The information disclosed will be **expressly** limited to:

- a. A summary of all relevant police visits to the premises as a result of relevant complaints or otherwise;
- b. A summary of any relevant incidents witnessed by Partner Organisation representatives;
- c. Details of any **relevant** criminal conviction of persons residing at the property.

The offender and offences *must be directly linked to the property, i.e.,* offences committed at the relevant property, or in the vicinity thereof, and care must also be taken to ensure that "spent" convictions, within the meaning of the Rehabilitation of Offenders Act, are not disclosed.

- 2.6.3.2 The Warwickshire Police's Designated Officer must ensure that any information on validated previous convictions is accurate and up to date before disclosing any such information.

2.7 Depersonalised Information

- 2.7.1 The partners to this Protocol agree to share depersonalised information.
- 2.7.2 There is a requirement that information must be accurate and complete before it can be made available to other Partner Organisations. The products produced by analysing depersonalised information can be used to:
- Inform the allocation of resources to tackle crime and disorder across the County;
 - Inform any Partnership Boards/Groups/Meetings discussing Anti-Social Behaviour, Crime or Disorder and justify the final actions taken. Maps and other visual images must not be published without prior consultation with the original data owner(s).
 - No attempt must be made to identify an individual through the provision of depersonalised information;
 - Data sets must not be released to those who have a commercial interest in their use;
 - Arrangements must be made for the secure storage of all depersonalised information; and
 - Information must be destroyed when it is no longer required.

2.8 Non-personal data

- 2.8.1 Signatories can use non-personalised data for crime-mapping purposes, within the remit of the Crime and Disorder Act 1998.
- 2.8.2 Partner Organisations understand that non-personalised data held may be subject to the provisions of the Freedom of Information Act 2000, and there may be a duty to disclose this data to a third party if a request is made under the Act.

APPENDIX A

Definitions

- a) **Personal Data:** data consisting of information which relates to a living individual who can be identified from that information (or from that and other information in the possession of, or is likely to come into the possession of, the data controller).
- b) **Crime:** any act, default, or conduct prejudicial to the community, the commission of which, by law, renders the person responsible liable to punishment by a fine, imprisonment, or other penalty.
- c) **Disorder:** is an expression, which refers to the level or pattern of anti-social behaviour within a particular area.
- d) **Anti-Social Behaviour:** acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself/herself.
- e) **Nuisance or Annoyance:** any conduct or other behaviour considered to be a nuisance or annoyance by a reasonable person e.g. racial harassment, sexual harassment, playing loud music, offensive drunkenness, rubbish dumping.
- f) **Relevant Authorities & those acting on their behalf:**
Defined by section 115 of the Crime and Disorder Act 1998, for the purposes of that section, i.e.
a chief officer of police;
a police authority;
a local authority;
a local probation board;
a health authority.
a chief Fire Officer

Part 6, Section 219 of the Housing Act 2004 has turned Registered Social Landlords into relevant authorities under section 115 of the Crime and Disorder Act 1998.

Section 219 states: Disclosure of information to registered social landlords for the purposes of section 1 of the Crime and Disorder Act 1998.

In section 115(2) of the Crime and Disorder Act 1998 (c.37) after paragraph (d) insert – “(d.a) a person registered under section 1 of the Housing Act 1996 as a social landlord;”.

- g) **Designated Officers:** representatives of the Partner Organisations who are the contact point for the exchange of data between such Parties and who are responsible for managing the associated administration systems.
- h) **Prolific and Priority Offenders:** a person identified as being at risk of offending by the Prolific and Priority Offender Steering Board made up of Partner Organisations.