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Deputy Fergus O'Dowd
Dáil Éireann
Leinster House
Kildare Street
Dublin 2.

PQ 36253/23 - To ask the Minister for Health to further confirm to health and social care services that there is no prohibition under either the GDPR (General Data Protection Regulation) or the Data Protection Act 2018 (2018 Act) from sharing information where processing (sharing) is necessary to prevent injury or other damage including damage to the property of a person or otherwise to protect the vital interests of a person (Section 55(b)(iv) of the 2018 Act); and if he will make a statement on the matter.

- **Fergus O'Dowd**

Dear Deputy O'Dowd,

The Health Service Executive (HSE) has been requested to reply directly to you in the context of the above Parliamentary Question, which you submitted to the Minister for response.

All persons working in health and social care services are subject to reporting obligations, most notably those set out in the Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012 and the Children First Act 2015. It is an offence to fail to comply with these obligations, subject to the exceptions to those obligations as provided in the legislation.

Sections 41 and 47 of the Data Protection Act 2018 explicitly facilitate the sharing of information where necessary and proportionate for preventing, detecting, investigating or prosecuting criminal offences and where necessary for the purposes of establishing, exercising or defending legal rights. This is in addition to the lawful bases for processing personal data set out in the GDPR where they apply, including the protection of vital interests.

The HSE Privacy Notice - Patients and Service Users notes the lawful bases under which personal data may be processed by the HSE when delivering public health and social care services. This includes where necessary in order to protect the vital interests of the person, where necessary for the exercise of official authority vested in the HSE by the Health Acts, and where necessary for the provision of healthcare, treatment or social care and the management of health or social care systems and services.

The lawful bases for processing personal data as set out in the HSE Privacy Notice are also reflected in the HSE Data Protection Policy which applies to all HSE staff, students, interns and work experience candidates, contractors, sub-contractors, agency staff and authorised third party commercial service providers and other persons or entities when receiving, handling or processing personal data as defined by the GDPR.

The HSE Privacy Notice notes the purposes for which information may be used. These include, in addition to managing and delivering care and treatment, reviewing care and treatment and investigating complaints, legal claims and adverse incidents. The Privacy Notice also states that information may be disclosed in accordance with legal requirements, or in an emergency situation to prevent injury to the patient/service-user or to other persons.

The HSE safeguarding policy 'Safeguarding Vulnerable Persons at Risk of Abuse: National Policy & Procedures', which applies to all HSE and HSE funded services, outlines a number of principles to promote the welfare of vulnerable people and safeguard them from abuse. This policy sets out the reporting obligations on all persons to whom it applies including the necessity to share information about actual or potential abuse within the HSE and to the appropriate authorities, including Tusla, An Garda Síochána, HIQA

The HSE safeguarding policy notes that while all information concerned with the reporting and subsequent assessment of concerns or allegations of alleged abuse is subject to the HSE policy on service user confidentiality, information regarding or allegations of abuse cannot be received with a promise of secrecy. A person providing such information should, as deemed appropriate, be informed that disclosures of information to appropriate others can occur if:

- (a) A vulnerable person is the subject of abuse and/or
- (b) The risk of further abuse exists and/or
- (c) There is a risk of abuse to another vulnerable person(s) and/or
- (d) There is reason to believe that the alleged person causing concern is a risk to themselves and/or
- (e) A legal obligation to report exists.

Further details are set out in the HSE safeguarding policy.

I trust this information is of assistance to you.

Yours sincerely,



David Walsh
National Director
Community Operations