

HEALTH & SOCIAL CARE

STAFF GUIDANCE ON CONFIDENTIALITY

INTRODUCTION

The use and sharing of service user personal information forms an essential part of the provision of health and social care. It benefits individual service users, enables health and social services to function effectively and is often necessary in the public interest. However, the essential nature of such uses needs to be set alongside the expectation service users have that all personal information will be kept confidential.

DUTY OF CONFIDENTIALITY

The relationship between health and social care staff and service users should be one of fidelity and trust. Service users have a tacit understanding that private information will not be used or disclosed without their knowledge and consent. All health and social care staff therefore have strong ethical and legal obligations to protect service user information. The right to confidentiality is guaranteed partly by the Data Protection Act 1998, partly by the Human Rights Act 1998, and partly by principles established by judges on a case by case basis (the common law). In addition there are ethical standards which staff within health and social care are obliged to abide by. Disciplinary consequences may follow from a breach of ethical standards.

Service users' right to privacy and the staff's duty of confidentiality apply regardless of the form in which information is held or communicated, for example electronic, paper, photographic or biological.

Particular care is needed on the part of health and social care staff to ensure that the right to confidentiality of vulnerable people – especially children and adults with incapacity – is respected and the duty of confidentiality owed to them is fulfilled.

A NEW CODE OF PRACTICE

A new Code of Practice has been introduced in Northern Ireland in 2009 to support staff in making good decisions about the protection, use and disclosure of service user information. This Code of Practice replaces earlier guidance "The Protection and Use of Patient and Client Information (June 1999). It provides practical guidance to assist decision making when dealing with service user information. The Code of Practice should be the reference point for all staff.

If you are unsure about sharing service user information ask your line manager, take advice from Information Governance staff in your organisation and if necessary have the issue drawn to the attention of the Personal Data Guardian.

SHARING OF INFORMATION FOR DIRECT CARE

The information service users provide often needs to be shared with other people involved in providing care. Such sharing is an essential part of the provision of many aspects of modern health and social care, which depend on the involvement of professionals working in teams and applying their own particular expertise to enhance care. Such information should be shared only if necessary to provide care.

USING SERVICE USER INFORMATION FOR OTHER HEALTH AND SOCIAL CARE PURPOSES

In many circumstances it is extremely beneficial for the health and social care system as a whole to be able to use information about individuals, for example in the efficient planning of how to provide services, the proper maintenance of accounts, the provision of appropriate training of staff and adequate monitoring of the outcomes of treatments. In all circumstances information should, wherever possible, be anonymised or coded in some other way to conceal identity. If it is not possible to conceal identity, information can normally only be used if service users have provided their consent.

DISCLOSING INFORMATION IN THE PUBLIC INTEREST

There may be other times when the law allows disclosure of service user information because it is very much in the public interest. For instance, disclosure may become necessary to reduce the chances of someone suffering harm, especially if that person is a child or other vulnerable person, to enable alleged misconduct by health and social care staff to be investigated, or to protect the general public against the spread of infectious diseases.

USEFUL INFORMATION

Code of Practice on Protecting the Confidentiality of Service User Information
(www.dhsspsni.gov.uk/confidentiality-code-of-practice0109.pdf)

Personal Data Guardians. Each HSC Trust has a Personal Data Guardian whose role is to ensure high standards of confidentiality and security of service user information.

Privacy Advisory Committee. The Committee was established in 2006. Part of its role is to provide advice on the protection, use and disclosure of service user information.

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