

# Information Governance - Data Protection, Freedom of Information and Caldicott

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# What is Information Governance?

- Definition:-
  - “A framework for handling personal information in a confidential and secure manner to appropriate ethical and quality standards in a modern health service”
- Information component of Clinical Governance
- Supports provision of high quality care to patients by promoting effective and appropriate use of personal, sensitive information

# Data Protection Act 1998

- Effective from 1 March 2000
- Emphasis on:  
the rights, freedom and privacy of the individual, their choice and consent and the responsibilities of the organisation.
- Central to the Act are the 8 Principles

# Personal Data

“Recorded information about an identifiable living individual”

- Factual
- Opinion
- Paper-based filing system
- Electronically on computer

# Personal data under the Act, must comply with eight principles:-

- Data must be processed fairly and lawfully
- Data must be held only for specified purposes
- Data must be adequate, relevant but not excessive
- Data must be accurate and kept up-to-date
- Data must be held no longer than is necessary
- Data must be processed in accordance with the rights of the Data Subject
- Data must be subject to appropriate Security measures
- Data must not be transferred outside the EEA

# Rights of the Data Subject

- Right to:-
  - Be informed that information is being held and why
  - Object to the processing of information
  - Receive communication about the information held
  - Request the rectification, blocking, erasure and destruction of incorrect information
  - Request access to information held; and
  - Make a claim if suffered damage or serious harm and distress as a result of the organisation mishandling information

# Access rights

- Every individual has the right to make a written request seeking access to information held about them
- Employees and patients, both past and present
- A representative can be appointed to act on individuals behalf
- 40 day time limit
  - Healthcare organisations should endeavour to meet such requests within 21 days
- Fee

# Confidentiality

- Employees have a common law duty of confidentiality
- Information given in confidence cannot be disclosed without information providers consent
- Includes all patient information
- Exceptions:-
  - Where individual has consented
  - Where disclosure in public interest
  - Where legal duty to do so I.e. Court Order

# Consent

- Individuals have right to object to use and disclosure of personal information
- Where disclosure is for healthcare reasons explicit consent is not required provided that:-
  - Patient has been informed of use and disclosure associated with healthcare;
  - Patient has been informed of the choices they have; and
  - Patient has been advised of the implications of those choices in limiting how information may be used and shared.
- Where disclosure is not directly concerned with healthcare of a patient, information cannot normally be disclosed without explicit consent

# Caldicott

A Committee chaired by Dame Fiona Caldicott:

- Found a lack of awareness of confidential and security requirements across the NHS
- Established a set of guidelines, reflecting best practice in the handling of confidential patient information

# Principles of Caldicott

- Justify the purpose
- Don't use patient identifiable information unless it is absolutely necessary
- Use the minimum necessary patient identifiable information
- Access strictly on a need-to-know basis
- Everyone should be aware of their responsibilities
- Understand and comply with the law

# Freedom of Information Act 2000

- The Act requires all public authorities to be open with information
- It gives the right of access to all types of information held by the Trust
- The Act sets out exemptions and places obligations upon the Trust. **Confidential information will be exempt and still be covered under the Data Protection Act.**
- All public authorities will have published details of all information routinely available to the public – Publication Scheme.

# Exemptions under FOI

- Exemptions can be absolute or qualified
  - Absolute – those cases where the right to know is wholly disappplied
  - Qualified – those cases where a public authority having identified a possible exemption must consider whether there is a greater public interest in confirming or denying the existence of the information requested
- Examples of exemptions are:-
  - Information provided in confidence
  - Legal Professional Privilege
  - Commercial Interests
  - Information accessible by other means
  - Information intended for future publication

# Access Rights under FOI

- Any individual anywhere in the World
- Right to:-
  - Make a request for information
  - Receive that information provided it does not fall within the exemptions laid out in the Act
- 20 working days to respond
- Charges in certain circumstances
  - Organisation has the right to decline to comply with certain requests for information on the grounds of cost

# Security of Information

- Lock or log-out of computer
- Do not share passwords
- Do not throw confidential waste in bin
- Do not use email to send confidential data outside the Trust
- Do not give confidential info over the telephone
- Ensure personal information is kept in a secure manner and location
- Keep a clear desk
- Shield computer screens in public areas
- Check visitors ID