

Executive Committee Report

Date of meeting		16 November 2016			
Report title		Records Management Policy			
Author(s) name and title		Clare Doble, Head of Governance			
Supporting Executive(s) name and title		Janet Fitzgerald, Director of Corporate Affairs			
Supporting Executive Approval Date:		11 November 2016			
Purpose of Report (please ✓)	Decision	✓	Does this document place individuals in the centre	Yes	No
	Assurance	✓		✓	
	Information	✓			
Actions/Recommendations Requested		Approve the records management policy			
Which other committees has this item been to?		N/A			
Reference to other documents		<p>Records Management: NHS Code of Practice part 2 (second edition, January 2009); The Freedom of Information Act 2000; The Data Protection Act 1998; Access to Health Records Act 1990; The Caldicott Committee Report (1997) and Dept of Health Confidentiality guidance 2003; Information, to share or not to share, Information Governance review; Revised Caldicott Principles September 2013; Audit Commission Report (1995) – Setting the Record Straight; CNST Clinical Risk Management Standards; Information For Health 1998 – 2005; and Information Security Management: NHS Code of Practice 2007. Information Risk Management Policy Information Security Policy; The Freedom of Information Act and Environmental Information Regulations Policy and Procedures; Incident Reporting policy and procedure, incorporating The Serious Untoward Incident Reporting Arrangements; Information Governance Policy Assurance Framework and Action Plan; Code of Practice on Confidentiality; and Information Governance Alliance Records Management Code of Practice for Health and Social Care</p>			

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Have the legal implications been considered?	Yes							
Quality and Equality Impact Assessment								
Who does the proposed piece of work affect? Yes✓ No X	Staff	✓	Patients	✓	Carers	✓	Public	✓
						Yes✓	No X	
1. Will the proposal have any impact on discrimination, equality of opportunity or relations between groups?								X
2. Is the proposal controversial in any way (including media, academic, voluntary or sector specific interest) about the proposed work?								X
3. Will there be a positive benefit to the users or workforce as a result of the proposed work?						✓		
4. Will the users or workforce be disadvantaged as a result of the proposed work?								X
5. Is there doubt about answers to any of the above questions (e.g. there is not enough information to draw a conclusion)?								X

If the answer to any of the above questions is yes (other than question 3) or you are unsure of your answers to any of the above you should provide further information using **Quality and Equality Impact Assessment** available from Corporate Services

If an equality assessment is not required briefly explain why and provide evidence for the decision.

2016/17 NEW Devon CCG Strategies Priorities and Core Objectives

Strategic Priorities	Does this report support the strategic priority/core objective	
	Yes✓	No X
Be financially sustainable – Turnaround and Success Regime		
Match resources explicitly to local need – ‘Strategic Systems Leadership		
Deliver integrated, personalised response – ‘Progress Partnership Working & Integration’		
Be focused on quality of outcomes – namely care that is safe, that is clinically and cost effective and provides experience for individuals accessing services – ‘Improve Performance’		
Deliver measureable results – ‘CCG Assurance Status restored’		
Make clear the roles and responsibilities of people in maintaining and improving their own wellbeing – ‘Progress the Prevention Agenda’		
Maximise CCG effectiveness by harnessing our most important asset – our staff	✓	

Executive Committee Report Records Management policy

1. Executive Summary

- 1.1 This policy sets out NHS NEW Devon CCG's (CCG) commitment to create, keep and manage records and documents, its principal activities in this respect, and to conform to the requirement in the Records Management: NHS Code of Practice.
- 1.2 The ultimate responsibility for Records Management within the organisation rests with the Chief Officer/Accountable Officer who is committed to a systematic and planned approach to the management of records. From the time a record is created until its ultimate disposal, the control of both the quality and the quantity of information, and the maintenance of information must be assured in a manner that effectively serves the needs of the organisation and its stakeholders, and is in compliance with appropriate legislation.
- 1.3 Records Management is a key responsibility of all employees, and accordingly all staff members are required to operate within the scope of the CCG's Records Management policy and all associated guidance.
- 1.4 This will ensure that the CCG can control both the quality and quantity of the information that it generates; it can maintain that information in an effective manner; and it can dispose of the information efficiently when it is no longer required.

2. Purpose of policy

- 2.1 The purpose of this policy is to outline the standards and procedures in relation to records management that the CCG is expected to adhere to. It aims to provide a systematic and planned approach to the management of clinical and non-clinical records, including electronic records, from the moment they are created to their ultimate disposal or deletion. It is the responsibility of all staff including those on temporary or honorary contracts, agency staff and students to comply with this policy, and each Line Manager should ensure that staff members are aware of this policy and its content.

3. Updates to the policy

- 3.1 The policy has been updated to ensure compliance with the Information Governance Alliance Records Management Code of Practice for Health and Social Care published in July 2016, as well as compliance with the NHS Digital Records Management template. Additionally, there have been updates to reflect more current CCG policies and processes, such as the Clear Desk

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policy, management of electronic records and the CCG's use of Crown
Records as a records storage and destruction facility.

4. Recommendations

- 4.1 The Executive committee is asked to approve the policy.

Document Status:	Awaiting review for approval
Version:	V5.0

DOCUMENT CHANGE HISTORY		
Version:	Date:	Comments (i.e. viewed, or reviewed, amended, approved by person or committee)
V3.0	04 February 2013	Amendments needed for transition into CCG
V4.0	17 th July 2014	Undertaken due diligence as part of IG Toolkit evidence Update to reflect change in personnel (Caldicott and Governance Manager)
V5.0	12 th October 2016	Updated to reflect compliance with IGA guidance and NHS Digital Model Records Management Policy
Authors:	Clare Doble, Head of Governance Lauren Wellington, Governance Officer	
Scrutinised by: (name & title)	Annette Benny, Deputy Director of Corporate Affairs	
Date:	November 2016	
Document Reference:	<p>The Freedom of Information Act 2000; The Data Protection Act 1998; Access to Health Records Act 1990; The Caldicott Committee Report (1997) and Dept of Health Confidentiality guidance 2003; Information, to share or not to share, Information Governance review; Revised Caldicott Principles September 2013; Audit Commission Report (1995) – Setting the Record Straight; CNST Clinical Risk Management Standards; Information For Health 1998 – 2005; and Information Security Management: NHS Code of Practice 2007. Information Risk Management Policy Information Security Policy; The Freedom of Information Act and Environmental Information Regulations Policy and Procedures; Incident Reporting policy and procedure, incorporating The Serious Untoward Incident Reporting Arrangements; Information Governance Policy Assurance Framework and Action Plan; Code of Practice on Confidentiality; and</p>	



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	Information Governance Alliance Records Management Code of Practice for Health and Social Care
Review date of approved document:	October 2019



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Records Management Policy

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1. Introduction

- 1.1 Records Management is the process by which an organisation manages all the aspects of records whether internally or externally generated and in any format or media type, from their creation, all the way through to their lifecycle to their eventual disposal.
- 1.2 The Records Management: NHS Code of Practice© has been published by the Department of Health as a guide to the required standards of practice in the management of records for those who work within or under contract to NHS organisations in England. It is based on current legal requirements and professional best practice. Records of NHS organisations are public records in accordance with Schedule 1 of the Public Records Act 1958. This Act requires that all public bodies have effective management systems in place to deliver their functions. For the CCG, along with other NHS organisations, the primary function for managing information and records is for the provision of high quality healthcare. The Act additionally imposes a duty on NHS organisations to make arrangements for the safe keeping of all types of records until their disposal in line with Information Governance Alliance (IGA) Records Management Code of Practice for Health and Social Care
- 1.3 NHS Northern, Eastern and Western Devon CCG's (CCG) records are its corporate memory, providing evidence of actions and decisions and representing a vital asset to support daily functions and operations. Records support policy formation and managerial decision-making, protect the interests of the CCG and the rights of patients, staff and members of the public. They support consistency, continuity, efficiency and productivity and help deliver services in consistent and equitable ways.
- 1.4 The Governing Body has adopted this records management policy and is committed to ongoing improvement of its records management functions as it believes that it will gain a number of organisational benefits from so doing. These include:
- better use of physical and server space;
 - better use of staff time;
 - improved control of valuable information resources;
 - instilling confidence with stakeholders, patients and public
 - compliance with legislation and standards; and
 - reduced costs.
- 1.5 The CCG also believes that its internal management processes will be improved by the greater availability of information that will accrue by the recognition of records management as a designated corporate function.
- 1.6 This document sets out a framework within which the staff responsible for managing the CCGs records can develop specific policies and procedures to ensure that records are managed and controlled effectively, and are commensurate with legal, operational and information needs.
- 1.7 This policy document also outlines how the policy requirements will be delivered, including standards and procedures expected to be adhered to by all staff in this organisation in relation to records. It aims to provide a

systematic and planned approach to the management of clinical and non-clinical records from the moment they are created to their ultimate disposal. It is the responsibility of all staff including those on temporary or honorary contracts, agency staff and students to comply with this policy therefore avoiding the need for an additional strategy document.

2. **Scope and Definitions**

2.1 This policy relates to all clinical and non-clinical operational records held in any format by the CCG. These include:

- all administrative records (eg corporate minutes, action and decision logs); and
- all patient health records that the CCG has a legal obligation to hold (Continuing Healthcare, Information Governance concerns; personnel, estates, financial and accounting records, records associated with complaint-handling; health and safety; claim handling, risk management and incident reporting Referrals Management systems, etc.)
- Data processed for secondary use purposes. Secondary use is any use of person level or aggregate level data that is not for direct care purposes. This can include data for service management, research or for supporting commissioning decisions.
- Patient advice and Complaints team (PALS) records, incident reports and records of formal complaints: These records must be held separately from any medical/clinical record. Unless the patient has requested or otherwise given consent, details or references to PALS contacts or complaints should not be recorded in a clinical record.
- Corporate and procurement records: With regard to communications via letter, telephone or email, it can be crucial that these are retained as part of CCG records. It is essential that the following communications are logged and securely stored for traceability:
 - Communications containing patient identifiable data;*
 - Communications relating to patient care or a patient complaint;*
 - Communications and records relating to Procurement or to an existing contract;*
 - Communications regarding sensitive staff matters (i.e. HR records); and*
 - MP enquiries.*
- With regards to meetings or discussions relating to patient care or a procurement process, it is crucial that accurate and comprehensive minutes are taken and retained. All meetings and calls relating to procurement should be logged with details of the nature of the discussions and any resulting decisions or actions.
- It is also good practice after receiving or making a telephone call, such as to a service user or a provider during the procurement process, to send a follow-up email confirming the key points of the conversation. This record retention is particularly important if the record relates to patient care; to a complaint; or to current procurement. This is due to the potential for disclosure of the communications through information requests, also known as subject access requests, or request for disclosure under the freedom of information Act, or required as evidence in a court of law in line with appropriate Nursing Midwifery Council, General Medical Council .

- While it is important to retain such records, space can be an issue, particularly in relation to email inboxes. It is not necessary to keep duplicate copies of information, both within inboxes and on shared drives. Regular reviews of inboxes, especially team inboxes with multiple users and a high volume of emails received, are crucial and should be conducted every 3-6 months by the relevant department. Emails can be stored in archive folders or deleted if they are stored elsewhere on the shared drive to free up space.
- The above list is not exhaustive and the policy will also apply to any record that holds information gathered as part of the strategic or operational work of the CCG.

2.1.1 The ownership and copyright of any records produced by CCG staff members is with the organisation and not with any individual.

2.1.2 The ISO standard, ISO 15489-1:2016 Information and documentation - Records management 8 defines a record as 'information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business'.

Purpose of records

2.1.3 Records are created or gathered to ensure that information is available to:

- support the patient care process and continuity of care;
- support day to day business which underpins delivery of care;
- enable evidence based practice;
- support sound administrative and managerial decision making;
- meet legal requirements, including requests from patients under Data Protection Act 1998 and Access to Health Records Act 1990;
- assist clinical and other audits;
- support improvements in clinical effectiveness through research and also to support archival functions by taking account of the historical importance of material and the needs of future research;
- support the commissioning intentions and strategic direction of the CCG, and
- assist whenever, and wherever, there is a justified need for information, and in whatever media it is required.

2.2 **Records Management** is a discipline which utilises an administrative system to direct and control the creation, version control, distribution, filing, retention, storage and disposal of records, in a way that is administratively and legally compliant, whilst at the same time serving the operational needs of the CCG and preserving an appropriate historical record. The key components of records management are:

- record creation;
- record keeping;
- record maintenance (including tracking of record movements);
- access and disclosure;
- closure and transfer;
- appraisal;
- archiving; and
- disposal.

- 2.3 The term **Records Life Cycle** describes the life of a record from its creation/receipt through the period of its 'active' use, then into a period of 'inactive' retention (such as closed files which may still be referred to occasionally) and finally either confidential disposal or archival preservation.
- 2.4 In this policy, **Records** are defined as 'recorded information, in any form, created or received and maintained by the CCG in the transaction of its business or conduct of affairs and kept as evidence of such activity'.
- 2.5 **Information** is a corporate asset. The CCGs records are important sources of administrative, evidential and historical information. They are vital to the CCG to support its current and future operations (including meeting the requirements of Freedom of Information legislation), for the purpose of accountability, and for an awareness and understanding of its history and procedures.

3. Aims of our Records Management System

- 3.1 The aims of our Records Management System are to ensure that:
- **records are available when needed** - from which the CCG is able to form a reconstruction of activities or events that have taken place;
 - **records can be accessed** - records and the information within them can be located and displayed in a way consistent with its initial use, and that the current version is identified where multiple versions exist;
 - **records can be interpreted** - the context of the record can be interpreted: who created or added to the record and when, during which business process, and how the record is related to other records;
 - **records can be trusted** – the record reliably represents the information that was actually used in, or created by, the business process, and its integrity and authenticity can be demonstrated;
 - **records can be maintained through time** – the qualities of availability, accessibility, interpretation and trustworthiness can be maintained for as long as the record is needed, perhaps permanently, despite changes of format;
 - **records are secure** - from unauthorised or inadvertent alteration or erasure, that access and disclosure are properly controlled and audit trails will track all use and changes. To ensure that records are held in a robust format which remains readable for as long as records are required;
 - **records are retained and disposed of appropriately** - using consistent and documented retention and disposal procedures, which include provision for appraisal and the permanent preservation of records with archival value; and

- **staff are trained** - so that all staff are made aware of their responsibilities for record-keeping and record management.

3.2 **Shared records**

3.2.1 The organisation operates an integrated management structure with Social Services, as part of its integrated working, and in the context of this must ensure best practice in relation to records. All jointly appointed managers must be aware of their responsibilities under this policy and the guidance in Confidentiality: NHS Code of Practice (2003).

3.2.2 This requires systems and processes that restrict the use and disclosure of confidential patient information to those activities that are directly concerned with or support a patient's healthcare, with controls based on need to know principles. It is important to note that any sharing of information can lead to confidential patient information being held outside the NHS and patients need to be aware of this and consent obtained as this cannot be assumed. Partner agencies or procured third parties also need to be aware that should they hold any health record this imposes particular duties and obligations that must be adhered to.

3.2.3 There are arrangements in place where shared records are prepared from the outset (e.g. Continuing Healthcare records). In these circumstances it is important that the records arrangement, and who can access the record, is discussed with the patient at the outset.

3.2.4 The Caldicott Guardian and Information Governance Manager can provide further advice in this area.

3.3 **Missing Records**

3.3.1 Where records are deemed to be missing, the Information Governance team should immediately be contacted and informed of the content, previous location and any patient or business significance of the records via D-CCG.informationgovernance@nhs.net

3.4 **Patient Request for Records**

HS NEW Devon CCG has a clear process for accessing patient records in line with the ICO. A subject access request (SAR) application form for patients wishing to request their records can be found [via the CCG website](#). For guidance and advice on the SAR process, please contact the IG team via D-ccg.informationgovernance@nhs.net

3.5 **Fair processing / Privacy Notice**

NHS NEW Devon CCG has a clear fair processing notice which is a legal requirement under the Data Protection Act. If patients or members of the public have any general queries or concerns regarding how the CCG shares, processes or securely stores their information, they can be directed to our [website](#). For any more specific queries or concerns, please direct patients to the IG team inbox D-CCG@informationgovernance@nhs.net

4. Roles and Responsibilities

4.1 The CCG has a particular responsibility for ensuring that it corporately meets its legal responsibilities, and for the adoption of internal and external governance requirements. Under the terms of the Public Records Act (1958 S.3), the *Chief Officer/Accountable Officer* and relevant *Directors* of the organisation are personally accountable for the quality of records management.

Chief Officer/Accountable Officer

4.2 The Chief Officer/Accountable Officer has overall responsibility for records management in the CCG. As Accountable Officer he/she is responsible for the management of the organisation and for ensuring appropriate mechanisms are in place to support service delivery and continuity. Records management is key to this as it will ensure appropriate, accurate information is available as required.

Caldicott Guardian

4.3 The CCGs Caldicott Guardian has a particular responsibility for reflecting patients' interests regarding the use of patient identifiable information. They are responsible for ensuring patient identifiable information is shared in an appropriate and secure manner.

4.4 **The Director or Corporate Affairs** has overall responsibility for the implementation of Records Management throughout the organisation on behalf of the CCG's Governing Body.

4.5 **Directors** are responsible and accountable for the management and quality of all records generated and / or held within their areas of responsibility.

Local managers

4.6 The responsibility for local records management is devolved to the relevant directors, directorate managers and department managers. Heads of Departments, other units and business functions within the CCG have overall responsibility for the management of records generated by their activities, ie for ensuring that records controlled within their unit/department are managed in a way which meets the aims of the CCGs records management policy or ensuring, where necessary, detailed standard operating procedures within their area of work are adhered to.

Management responsibility will include ensuring application of this policy and effective administrative systems for:

- tracking and registration of appropriate records;
- ensuring that clinical and other priority records are either bound (where hard copy records), or electronically accessible on the relevant dedicated server area and stored securely so that loss of documents is minimised;
- ensuring semi-current records are archived in appropriate, secure areas;
- ensuring that there is a mechanism for identifying records for retention;
- ensuring effective, secure storage of retained records;
- ensuring systems for all records are considered, including the wide range of clinical records that exist (e.g. continuing healthcare, Exceptional

Treatment Funding Panel, business intelligence, complaints files, MP enquiries, communications logs etc);

- ensuring records are destroyed in line with this policy at the end of their relevant minimum retention period unless approved justification for retention is obtained

All *line managers* must ensure that their staff, whether administrative or clinical, are adequately trained and apply the appropriate guidelines, that is, they must have an up-to-date knowledge of the laws and guidelines, concerning confidentiality, data protection and access to patient information in particular.

All Staff

- 4.8 All NHS employees are responsible for any records which they create or use. This responsibility is established at, and defined by, the law (Public Records Act 1958). Furthermore, as an employee of the NHS, any records created by an employee are public records
- 4.9 All CCG staff, whether clinical or administrative, who create, receive and use records have records management responsibilities. In particular all staff must ensure that they keep appropriate records of their work in the CCG and manage those records in keeping with this policy and with any guidance subsequently produced.
- 4.10 Everyone working for or with the NHS who records, handles, stores, or otherwise comes across patient information has a personal common law duty of confidence to patients and to his or her employer. The duty of confidence continues even after the death of the patient or after an employee or contractor has left the NHS.
- 4.11 Personal information (e.g. about a patient / member of staff) processed or kept for any purpose should not be kept for longer than is necessary for that purpose. Patient information may not be passed on to others without the individual's consent except as permitted under Schedule 2 and 3 of the Data Protection Act 1998 or, where applicable, under the common law where there is an overriding public interest. Further guidance on disclosing patient information can be found within the CCG's Code of Practice on Confidentiality.

5. Legal and Professional Obligations

- 5.1 All NHS records are Public Records under the Public Records Acts. The CCG will take actions as necessary to comply with the legal and professional obligations set out in the Records Management: NHS Code of Practice, in particular:
- The Public Records Act 1958;
 - The Freedom of Information Act 2000;
 - The Common Law Duty of Confidentiality; and
 - Records Management: NHS Code of Practice part 2 (second edition, January 2009);
 - The Freedom of Information Act 2000;
 - The Data Protection Act 1998;
 - Access to Health Records Act 1990;

- The Caldicott Committee Report (1997) and Dept of Health Confidentiality guidance 2003;
- Information, to share or not to share, Information Governance review;
- Revised Caldicott Principles September 2013;
- Audit Commission Report (1995) – Setting the Record Straight;
- CNST Clinical Risk Management Standards;
- Information For Health 1998 – 2005;
- Information Security Management: NHS Code of Practice 2007; and
- Information Governance Alliance Records Management Code of Practice for Health and Social Care.
- Nursing & Midwifery Council
- General Medical Council

and any new legislation affecting records management as it arises.

- 5.2 A short summary description of this legislation and national guidance is provided in Appendix A.

6. Registration of Record Collections

- 6.1 The CCG will establish and maintain mechanisms through which departments and its localities can register the records they are maintaining, this is particularly relevant in the CCG for DRSS, Complaints, legal advice, personnel records, CHC and Appeals Panels. Managers should monitor registration systems, reviewing these at least once every two years to ensure that they continue to operate effectively and efficiently and meet the needs of users. The inventory of registration and record collections will facilitate:

- the classification of records by unique identifier, department or locality; and
- the recording of the responsibility of individuals creating records.

- 6.2 Responsibility for records management matters will be co-ordinated and delegated through *directors, managers* and *service leads*. Each *director* and *manager* will be responsible for implementing local registrations and record collections where they are necessary.

7. Retention and Disposal Schedules

- 7.1 It is a fundamental requirement that all of the CCGs records are retained for a minimum period of time for legal, operational, research and safety reasons. The length of time for retaining records will depend on the type of record and its importance to the CCGs business functions.
- 7.2 The Information Governance Alliance Records Management Code of Practice for Health and Social Care, takes account of legal requirements and sets out the minimum retention periods for both clinical and administrative records. The CCG has local discretion to keep material for longer periods, subject to local needs, affordability and, where records contain personal information, the requirements of the Data Protection Act 1998.

- 7.3 Retention of records for longer than the recommended minimum period must be discussed with the IG Manager and, with their agreement, may be justified in writing for ratification by the Caldicott Guardian and information Governance (IG) Steering Group.
- 7.4 Further detailed guidance on records retention, which the CCG has adopted, can be found in the [Information Governance Alliance Records Management Code of Practice for Health and Social Care](#).
- 7.5 Most NHS records, even administrative ones, contain sensitive or confidential information. It is therefore vital that confidentiality is safeguarded at every stage and that the method used to destroy such records is fully effective and secures their complete illegibility. Normally this will involve shredding, pulping, or incineration. For paper records, the CCG currently uses Crown Records Management to destroy archived records that have passed their retention date. Electronic records should be reviewed and deleted in line with departmental procedures. Advice on destruction can be sought from the IG team.
- 7.6 A complete log must be kept of records that have been destroyed or deleted, when, how, by whom and under what authority, as part of a destruction log. The destruction log template can be found on the CCG [website](#)

Accidental Destruction of Records

- 7.7 If a record is accidentally destroyed, details must be reported to the IG team via D-CCG.informationgovernancce@nhs.net

Current paper records

- 7.8 When a record is in current or regular use, it makes sense to keep it within the area responsible for the related work. Storage equipment for current records will usually be adjacent to users - i.e. their desk drawers or nearby cabinets - to enable information to be appropriately filed so that it can be retrieved when it is next required.
- 7.9 Records must always be kept securely, and when a room containing records is left unattended it should be locked. For more information on the correct storage of current records, please read the CCG's [Clear Desk policy](#).
- 7.10 There is a wide range of suitable office filing equipment available. The following factors should be taken into account:
- compliance with Health & Safety regulations (must be the top priority);
 - security (especially for confidential material);
 - the user's needs;
 - type(s) of records to be stored;
 - their size and quantities;
 - usage and frequency of retrievals; and
 - suitability, space efficiency and price.

Archiving paper records

- 7.11 As the need for quick access to particular records reduces, it may be more efficient to move the less frequently used material out of the work area and into archive storage.
- 7.12 Records to be archived are those records that are no longer required for the conduct of current business and which are waiting to be appraised for their long-term value or disposed of in accordance with retention schedules under [IGA guidance](#).
- 7.13 Crown Records is currently used by the CCG to archive our relevant documents. In order to have records archived, the process that needs to be followed is can be found on our [website](#) along with the necessary inventory and destruction log templates.
- 7.14 In order to retrieve records from or return them to this archive, please contact the IG team via D-CCG.informationgovernance@nhs.net

Electronic and Non-paper records

- 7.15 Electronic computer records must be saved on the IT server which will be backed up remotely by the CCGs IT provider daily.
- 7.16 Patient or staff identifiable records must not be saved to a personal drive on a CCG laptop or mobile device without a justified purpose, which needs to be discussed and agreed with a line manager. All CCG data, in particular patient or staff data, should be saved on an appropriate area of a shared drive and **NOT** on personal drives in order that only authorised staff can gain access. If any confidential data has inadvertently been saved to personal drive it **MUST** be saved to the network drive as soon as possible to minimize the security risks, as well as any risks of record inaccuracy or duplication.

Labelling and packing

- 7.17 If records are being delivered to another location they should be enclosed securely in envelopes or opaque wallets and sealed for transfer, with a covering note to explain what the records are, who they are for and who they are from. Any records that may be damaged in transit should be enclosed in suitable padding or containers.
- 7.18 For larger quantities, records should be boxed securely in suitable boxes or containers for their protection. Boxes for archiving records can be requested from Crown records via the IG team.
- 7.19 Each box or envelope should be addressed clearly and marked “Private and Confidential – To be opened by the Addressee Only”. Patient and staff identifiable records must never be sent to another organisation without being addressed either to a specific team or ideally to a specific person. If any confidential records are received by the CCG without a specific address, please inform the IG team.
- 7.20 There are limited options if records are to be mailed:

- approved courier, e.g. NHS Courier service; and
- Royal Mail Special Delivery, which includes a Track & Trace facility, backed up by electronic Proof of Delivery.

For transfer of records via secure email the information security policy must be adhered to <http://www.newdevonccg.nhs.uk/who-we-are/policies/100087>

Taking records off site

- 7.21 Records should only ever be taken off site with the approval of the line manager or Executive lead. Security of these records should be paramount, especially in the case of confidential records. The IG team can provide advice on the precautions to take.
- 7.22 Records should never be left unattended, for example in a car. Once permission has been sought from a line manager, any records taken off site must be stored securely in accordance with the CCG's Code of Confidentiality and Information Security policy.
- 7.23 It is essential that any such records are tracked out of the department so that all staff members are aware of the location of the record.
- 7.24 If records are lost or stolen whilst away from base this must be reported immediately as an Information Security incident to the IG team.
- 7.25 Any member of staff using records whilst working from home or otherwise not in an office location must only do so in accordance with [the CCG's Flexible Working policy](#).

8. Records Management Systems Audit

- 8.1 The CCG will regularly audit its records management practices for compliance with this framework. Internal Audit, line managers and all staff are responsible for auditing service areas in accordance with records management requirements and reporting results with action plans to the Information Governance Manager.
- 8.2 Incident reporting of lost records and breaches of confidentiality will be analysed and reported to the Information Governance Steering Group and Information governance manager to identify areas of potential risk and any trends in incidents. This will facilitate action planning and implementation of the same to meet identified gaps in the process.
- 8.3 The audit must assess the following:
- Accountability* – that adequate records are maintained to account fully and transparently for all actions and decisions in particular:
- to protect legal and other rights of staff or those affected by those actions;
 - to facilitate audit or examination; and

- to provide credible and authoritative evidence.

Quality – that records are complete and accurate and the information they contain is reliable and its authenticity can be guaranteed.

Accessibility – that records and the information within them can be efficiently retrieved by those with a legitimate right of access, for as long as the records are held by the organisation

Security – that records will be secure from unauthorised or inadvertent alteration or erasure, that access and disclosure will be properly controlled and audit trails will track all use and changes. Records will be held in a robust format which remains readable for as long as records are required.

Retention and disposal – that there are consistent and documented retention and disposal procedures to include provision for permanent preservation of archival records.

Training – that all staff are made aware of their record-keeping responsibilities through generic and specific training programmes and guidance.

Performance measurement – that the application of records management procedures are regularly monitored against agreed indicators and action taken to improve standards as necessary.

It will also consider:

- Identifying areas of operation that are covered by the CCGs policies and identify which procedures and/or guidance should comply to the policy;
- Following a mechanism for adapting the policy to cover missing areas if these are critical to the creation and use of records, and use a subsidiary development plan if there are major changes to be made;
- Setting and maintain standards by implementing new procedures, including obtaining feedback where the procedures do not match the desired levels of performance; and
- Highlighting where non-conformance to the procedures is occurring and suggest a tightening of controls and adjustment to related procedures.

8.4 The results of audits will be reported to the Information Governance Steering Group by the relevant manager, where the Senior Information Risk Owner and Caldicott Guardian are present.

9. Training

9.1 All CCG staff will be made aware of their responsibilities for record-keeping and record management through corporate update events (CUE) and any specific training programmes identified through departmental action plans, or from the Information Governance Steering Group and through the guidance offered in this policy.

- 9.2 All staff joining the organisation will receive induction training, which includes information about Records Management, Information Security and Data Protection.
- 9.3 Records Management training will form part of the IG training given via the regular Corporate Update Events in order to ensure that all staff have an adequate awareness of the CCG processes and their responsibilities for records.

10. Review

- 10.1 This policy will be reviewed every three years (or sooner if new legislation, codes of practice or national standards are to be introduced).

Appendix A

Legislative framework

There are a range of legal obligations that limit, prohibit or set conditions in respect of the management, use and disclosure of information as well as a number of statutes that permit or require information to be used or disclosed.

Where necessary, the organisation should obtain professional legal advice on the application of these provisions.

The statutes below are those identified as having elements key to records management within NHS NEW Devon CCG Records Management policy.

The Freedom of Information Act 2000 & Environmental Information Regulations 2004

The Freedom of Information Act 2000 (FOI Act) and the Environmental Information Regulations 2004 (EIR) provide statutory rights for the public to request recorded information held by the organisation.

The legislation requires the organisation to respond to requests for information within 20 working days. Records management staff and procedures are crucial to compliance with this Act.

It is therefore imperative to have a robust record keeping policy in place to facilitate the access and retrieval of documents and information.

See NHS NEW Devon CCG Freedom of Information policy and guidance on the organisation's website at: www.newdevonccg.nhs.uk/

The Data Protection Act 1998

Since March 2000 the key legislation governing the protection and use of identifiable person based information has been the Data Protection Act (DPA). The act imposes eight principles which must be complied with in order to lawfully "process" personal information. The eight principles are detailed in the NHS NEW Devon CCG Data Protection policy.

Health records, employee records, and patient identifiable information are all examples of personal information held by the organisation.

The Act only applies to living individuals and gives seven rights to individuals in respect of their own personal data held by others, they are:

- 1 Right of subject access;
- 2 Right to prevent processing likely to cause damage or distress;
- 3 Right to prevent processing for the purpose of direct marketing;
- 4 Rights in relation to automated decision taking;
- 5 Right to take action for compensation if the individual suffers damage;
- 6 Right to take action to rectify, block, erase or destroy inaccurate data; and
- 7 Right to make a request to the Commissioner for an assessment to be made as to whether any provision of the Act has been contravened.

All staff will have a key role in ensuring that health records, information about patients/ clients and employee information is stored and used fairly and lawfully and can be located, retrieved and supplied in a manner consistent with the act. It is important that document management structures are set up in such a way as to enable them to carry out this role

See NHS NEW Devon CCG Code of Practice on Confidentiality (Data Protection) and subject access guidance on the organisation's website at:
<http://www.newdevonccg.nhs.uk/>

Access to Health Records Act 1990

The Access to Health Records Act 1990 only applies to the records of deceased individuals and only where the applicant is the deceased personal representative (including executors and administrators) to enable them to carry out their duties; and anyone who has a claim resulting from the death. The right of access is restricted if:

- there is evidence that the deceased did not wish for any or part of their information to be disclosed; or
- disclosure of the information would cause serious harm to the physical or mental health of any person; or
- disclosure would identify a third party (i.e. not the patient nor a healthcare professional) who has not consented to that disclosure.

A medical professional must screen the notes before release.

In other circumstances, disclosure of health records relating to the deceased should satisfy common law duty of confidence requirements.

The organisation must ensure that the records of deceased persons can be accessed, and that the records are stored to ensure they are in good order and available if required. The organisation must have processes and procedures in place to enable the efficient and effective retrieval of such records within the timescales specified by the Act.

Common law duty of confidentiality

The duty of confidentiality is a duty defined by decisions of judges made in court which become precedents (also known as case law) and have to be followed by judges in cases of a similar nature.

Confidential information can be lawfully disclosed however, provided at least one of the keys for disclosure exist. These keys are:

- The individual to whom the information relates has consented; or
- The disclosure is in the public interest or the vital interests of the individual;
or
- There is a legal duty to do so, for example a court order.

If a disclosure is made that breaches the duty of confidentiality, a person can bring a legal action not only against the organisation but also against the individual responsible for the breach.

All staff who handle confidential records must be aware of their responsibility for maintaining confidentiality of records. Employees should only have access to those parts of the record required to carry out their role. Requests for records access by other staff members should be logged and periodically audited.

There is an ethical obligation that requires that confidentiality obligations continue to apply after someone has died. This is endorsed by the Department of Health and the General Medical Council.

See NHS NEW Devon CCG Code of Practice on Confidentiality (Data Protection) on the organisation's website at: <http://www.newdevonccg.nhs.uk>

Copyright, Designs & Patents Act 1990

The Act protects the intellectual property of individuals and requires that permission of the owner of the intellectual property is sought before any use of it is made.

The organisation's web pages should not contain, or distribute, text or images to which a third party holds an intellectual property right, without the express written permission of the author. The author may have quoted other people's material and if this is the case, such a third party would also need to give permission. Corporate web pages where information is published should be checked for infringement of the Act and/or that necessary permissions or acknowledgements have been given

Care must be taken when disclosing information further to requests under the Freedom of Information Act and Environmental Information Regulations that the permission of third parties who hold the copyright has been granted or an exemption applies

Where there is doubt, contact the Governance Manager or seek legal advice.

National Policy & Standards

Information Governance Alliance Records Management Code of Practice for Health and Social Care **The Records Management: NHS Code of Practice**

This Code of Practice is a guide to the required standards of practice in the management of records for those who work within or under contract to NHS organisations in England. It is based on current legal requirements and professional best practice.

The objectives of the Code of Practice are:

- to establish an Information Governance framework for records management in relation to the creation, use, storage, management and disposal of all types of records;
- to clarify the legal obligations that apply to organisations handling confidential records;
- to explain the actions required by organisations and their staff members to fulfill these obligations;
- to explain the requirement to select records for permanent preservation; and
- to set out recommended minimum periods for retention of all types of

public and NHS records, regardless of the media on which they are held, and to indicate where further information on records management may be found.

The IGA Code of Practice replaces the Records Management: NHS Code of Practice

Information Governance

Information Governance is the framework to manage the way information, including patient information, is held, obtained, used, processed and stored with the organisation.

The Information Governance Toolkit details the performance requirements for the organisation to be compliant with the legal, ethical and national policy requirements that fall within the remit of Information Governance.

The toolkit has to be submitted to the Department of Health on an annual basis as evidence of its achievement in meeting the standards for Information Governance.

Information Governance currently covers the following:

- Information Security;
- Information Governance Management;
- Confidentiality & Data Protection Assurance;
- Clinical Information Assurance;
- Corporate Information Assurance; and
- Secondary Use Assurance

Caldicott

All NHS and Social Services organisations have a Caldicott Guardian to oversee access to patient/service user information.

The Caldicott principles provide a framework of quality standards for the management of confidentiality and access to personal information under the leadership of a Caldicott Guardian.

The 'Caldicott' principles and recommendations apply specifically to patient/service user - identifiable information. The recommendations are defined as seven principles for handling the flow of patient information:

- Principle 1 - Justify the purpose(s) for using confidential information;
- Principle 2 - Only use it when absolutely necessary;
- Principle 3 - Use the minimum that is required;
- Principle 4 - Access should be on a strict need-to-know basis;
- Principle 5 - Everyone must understand his or her responsibilities;
- Principle 6 - Understand and comply with the law; and
- Principle 7 - The duty to share information can be as important as the duty to protect patient confidentiality.

Any access, sharing and disclosure of patient-identifiable information must adhere to the Caldicott principles.

NHS Litigation Authority

The objective of the NHS Litigation Authority (NHSLA) is to help raise standards of care in the NHS and hence reduce the number of incidents leading to claims.

Records Management is one of the risk management standards monitored by the NHSLA.

The standards require a systematic and planned approach to the management of records to be in place so that the organisation can ensure, from the moment a record is created until its ultimate disposal, it can control both the quality and quantity of information it generates; can maintain that information in a manner that effectively services its needs and those of its stakeholders; and it can dispose of the information appropriately when it is no longer required.

Care Quality Commission

From April 2010 all regulated health and social care providers must be registered with the Care Quality Commission (CQC) to show they are meeting essential, common quality standards.

Core standard C9 requires the organisation to have a “systematic and planned approach to the management of records to ensure that, from the moment a record is created until its ultimate disposal, the organisation maintains information so that it serves the purpose it was collected for and disposes of the information appropriately when no longer required”.

This core standard requires that effective systems are in place to manage records in accordance with *Records management: NHS code of practice* (Department of Health, January 2009), *Information security management: NHS code of practice* (Department of Health, April 2007), *NHS Information Governance* (Department of Health, September 2007), and *The NHS in England: the Operating Framework for 2009/10* (Department of Health, December 2008).

Audit Commission Report

The 1995 Audit Commission report, „Setting the Record Straight – A Study of Hospital Medical Records”, criticised the poor standard of NHS record keeping and strongly recommended that corrective action should be taken. The key issues to be addressed are the:

- legacy of low priority given to records management and related facilities;
- lack of awareness of the importance of good record keeping;
- lack of information sharing between professions and work units;
- tendency to treat records as personal rather than corporate assets;
- lack of co-ordination between paper and electronic information strategies; and
- need to maintain confidentiality whilst legitimately freeing information

The Health Service Commissioner has a statutory right to obtain relevant records when investigating a complaint. If records are missing or inadequately maintained, the Commissioner will criticise that in his report.