

6 Skelmersdale Walk to 20-22 Wenlock Road, London N1 7GU

### Information Governance under the General Data Protection Regulation (GDPR)

<b>Summary</b>	<b>Care Quality Support</b> comply with the General Data Protection Regulation (GDPR), which consolidates the current data protection laws under the Data Protection Act 2018. Organisations that have been compliant with data protection laws are likely to remain compliant with much of the GDPR, which, however, introduces additional requirements, particularly regarding information governance.
<b>Scope</b>	The following people may be affected by this policy: All staff. Whether temporary or permanent, Local Authorities, Commissioners. Families, NHS, and Children and young people.
<b>Document Type</b>	<b>Policy &amp; Procedure</b>
<b>Verified By</b>	Care Quality Support
<b>Issued Date</b>	2023-03-10
<b>Review Date</b>	2024-03-10

#### Policy Statement

All organisations and businesses must comply with the General Data Protection Regulation (GDPR), which consolidates the current data protection laws under the Data Protection Act 2018. Organisations that have been compliant with data protection laws are likely to remain compliant with much of the GDPR, which however, introduces additional requirements, particularly regarding information governance.

This policy sets out how **Care Quality Support** meets its information governance duties and responsibilities under current data legislation and the GDPR.

The policy should be used with other relevant policies on:

- *Applications for Access to a Deceased Service User's Care Records*
- *Confidentiality of Service Users' Information (England)*
- *Data Protection and Compliance with General Data Protection*
- *Protecting Personal Data under the General Data Protection Regulation, which addresses the protection of personal data*
- *Record Keeping (England)*
- *Service Users' Authorised Access to Records (England).*

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## EQUALITY AND HUMAN RIGHTS

**Care Quality Support** recognises that some sections of our society experience prejudice and discrimination. The Equality Act 2010 specifically recognises the protected characteristics of age, disability, gender, race, religion or belief, sexual orientation, and transgender.

The Equality Act also requires regard to socio-economic factors including pregnancy /maternity and marriage/civil partnership.

### **Care Quality Support**

is committed to equality of opportunity and anti-discriminatory practice both in the provision of services and in our role as an employer.

### **Care Quality Support**

believes that all people have the right to be treated with dignity and respect and is committed to the elimination of unfair and unlawful discriminatory practices.

### **Care Quality Support**

also is aware of its legal duties under the Human Rights Act 1998. Section 6 of the Human Rights Act requires organisations to uphold and promote Human Rights in everything they do. It is unlawful for an organisation to perform any act which contravenes the Human Rights Act.

### **Care Quality Support**

is committed to carrying out its functions and service delivery in line with the Human Rights based approach and the FREDA principles of Fairness, Respect, Equality Dignity, and Autonomy.

- **References to Legislation and Quality Standards**

<b>Children's Homes (England) Regulations 2015</b>	<b>Regulation 13</b>
<b>Quality Standard</b>	<b>Leadership and Management</b>

### Definitions

Information governance represents the systems, policies, procedures, and processes adopted by **Care Quality Support** to ensure that data is always:

- obtained fairly and lawfully
- held securely and confidentially
- recorded accurately and reliably



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- used effectively and ethically
- shared and disclosed appropriately and lawfully
- disposed of safely to the standards required, when no longer needed.

The policy describes how **Care Quality Support** manages any data, which it keeps and to which it has access, so that the information is always held safely and securely and is lawfully used. In carrying on its business of providing care and treatment, **Care Quality Support** will obtain and use the personal data of different groups of people: its service users and others relevant to them, its employees, and others, such as contractors and suppliers of goods and services. **Care Quality Support** is bound by law and its registration requirements to achieve established standards in its handling and management of information.

In addition to the record-keeping policies described above, the information governance framework includes several interrelated policies and procedures that contribute to its effectiveness. They include:

- access to employees' data
- Caldicott principles
- computer systems and internet: acceptable use
- internet use: staff
- internet use: service users
- IT disposal
- the use of mobile telephones
- quality assurance: monitoring and reviewing the service provision
- sharing information with other providers
- social media.

**Legal Requirements**

**Care Quality Support** recognises that information governance requirements have developed from a raft of legislation and statutory guidance, including:

- Data Protection Act 2018 and the GDPR, in force since May 2018, which replaces the Data Protection Act 1998 as the overriding legislation
- the Common Law duty of confidentiality as applied, for example, in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
- Freedom of Information Act 2000
- Human Rights Act 1998

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- the Caldicott Report and Principles (and their application under the Office of the National Data Guardian)
- Health and Social Care Act 2008 (and regulations)
- Health and Social Care Act 2012
- *Information Governance Alliance: Records Management Code of Practice for Health and Social Care 2016*.

It also acknowledges the importance of complying with Regulation 17: Good Governance of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, which requires registered care providers to have effective systems and processes for, among other aspects of administration, keeping records on every service user, maintaining records and striving for continuous improvements to their systems (see Regulations 17(c), (d) and (f)).

**Care Quality Support** recognises that it must also comply with the *Information Governance Alliance: Records Management Code of Practice for Health and Social Care 2016* (referred to here as the Records Management Code of Practice), if, as an adult social care provider, its care records are integrated and used with service users' NHS records. This will be the situation of care homes and domiciliary care services that have contracts with local Clinical Commissioning Groups, which expect the services they commission to apply the Records Management Code of Practice.

Included in a contract could be a requirement that **Care Quality Support** will achieve the information governance quality standards as set out in the Code of Practice, by regularly completing the Information Governance Toolkit (IGT), an online self-assessment framework that has become standard for NHS bodies and partner organisations to use. The IGT is being updated to be fit for purpose in relation to the GDPR that applies from May 2018.

#### The Information Governance Framework

##### Scope

The information governance framework for **Care Quality Support** covers all records used for or with the care and treatment of its service users, staff records and administrative records likely to contain confidential information. All such records will be handled and kept safely, securely, and lawfully to the same standards established by the Records Management Code of Practice regardless of their formats, including written records, forms, photographs, audio-visual, CCTV records, computer and smart device electronic records.

##### The component parts

**Care Quality Support** recognises that it must achieve agreed standards for each aspect of its information governance system, which, following the Records Management Code of Practice and the GDPR requirements, requires attention to the following.

##### Records system design

Each set of records and record keeping arrangements are designed so that they are always fit for purpose (including using an appropriate format) and can be correctly handled and maintained. All

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features of the record keeping arrangements are kept under constant review, regularly audited, and changed or replaced if they become unfit for purpose and fail to achieve the required standards.

## Records handling and use

**Care Quality Support** has put into place effective procedures to ensure that records storage, arrangements for authorised access, information sharing, transfer of records, and quality of recording are all maintained to the required standard as per the respective policies referred to in the *Introduction*.

## Audit, review, and retention

All records and record-keeping systems are regularly audited and reviewed for their current purpose and quality in line with **Care Quality Support's** auditing schedules. Records that are no longer needed will be stored or archived safely and securely for the retention periods set out in the Records Management Code of Practice (Appendix 3).

## Appraisal

At the minimum retention date, records will be appraised to identify if they will be required further, and if not, they will be safely disposed of. Where service users' health and social care records have been integrated (as they might in an NHS owned or commissioned facility or care home with nursing) **Care Quality Support** will comply with the eight-year retention period stated in Appendix 3 of the Records Management Code of Practice.

**Note:**

The eight-year retention period given in the Records Management Code of Practice is at variance with the three-year minimum retention period that for data protection reasons applies to care homes and domiciliary care services, where they have independent record-keeping systems.

## Disposal

**Care Quality Support** will safely dispose of all records that have passed their minimum retention period and are no longer needed. The methods of safe disposal will depend on the type of record. Paper records will always be confidentially shredded, and records kept of the means and date. Electronic records stored on computers, smartphones or other such devices will be disposed of using approved methods and IT expertise.

## Management Responsibilities

**Care Quality Support** has designated people for information governance in each of its locations and at organisational level. This includes the designation of people to be responsible for the co-ordination and completion of the Information Governance Toolkit self-assessment work.

Where responsibilities are delegated to someone other than the registered manager, the person(s) will be responsible to the registered manager, who will be responsible to the registered provider (or service lead for information governance).

Every person with information governance responsibilities has clearly defined roles for ensuring the safe, secure and lawful use of the records for which they are responsible, for oversight of any or all

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stages of the lifecycle of the salient records from design to disposal (see above), and for maintaining standards.

Anyone with information governance responsibilities will be suitably inducted and trained to fulfil the requirements of their role and will be required to make regular reports to their line manager so that there is a clearly defined reporting process operating throughout and to the top of the organisation.

### Achieving, Maintaining and Improving Information Governance Standards

**Care Quality Support** is committed to ensuring that all personal data that it creates, uses, handles, and manages, achieves and maintains the highest standards of information governance possible. It recognises that the current benchmarks are provided by the IGT, which is the responsibility of NHS Digital (formerly the Health and Social Care Information Centre). These benchmarks will also be consistent with the General Data Protection Regulation, which was passed in 2016 with a view to being implemented from May 2018.

**Care Quality Support** might be required by its commissioning authority to make active use of the IGT. Without specific requirements, **Care Quality Support** considers that it is good practice to benchmark their information governance achievements against the IGT and to develop improvement plans from the results.

**Care Quality Support** considers that it will achieve the IGT standards (at level 1/2) by, for example:

- having designated staff, who are suitably trained in the role, to be information governance leads for their respective record management duties
- having an information governance management framework based on this policy that covers all aspects of information governance
- ensuring that all care, nursing, non-care staff and contractors supplying goods and services understand how to keep confidential any personal information they receive, and in line with data protection requirements
- ensuring that staff receive suitable training from induction onwards **Care Quality Support's** policies and procedures for safe handling and using information
- ensuring that all related policies and procedures on record keeping, confidentiality, consent, data protection are always adhered to by all staff, partners, and stakeholders
- ensuring that all personal data in any form is kept safe and secure
- stating its commitment to continuously improving its information governance through its improvement plan.

### Losses and Breaches of Information Safety and Security

**Care Quality Support** will act quickly to repair and mitigate any damage or harm caused by accidental or deliberate loss of sensitive data or breaches of the established policies and procedures in the handling of the data, especially if the events are harmful or potentially harmful to its service users.

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**Care Quality Support** will always investigate thoroughly any loss of information or breaches in the handling of sensitive information and will fully co-operate with other organisations that might be involved in the loss or damage, including police if there is evidence that criminal acts have been committed.

Employees who fail in their duty of care to protect sensitive information will be subject to the service's disciplinary proceedings. If the service receives a complaint about the mishandling or loss of personal data, it will investigate the matter through its complaints procedures, which might also entail working with other organisations with whom the data is shared.

**Care Quality Support** will also take suitable action against any third parties with access to sensitive information, who have not followed the required policies and procedures over confidentiality, etc.

In the event of individuals suffering significant harm from any personal data losses or being placed at high risk of being harmed, the service in line with its legal obligations under the GDPR inform the Information Commissioner's Office so that it can investigate.

#### Training

New care staff are trained in **Care Quality Support's** policies and procedures for record keeping, consent and confidentiality, etc. as part of their induction training, which follows the Care Certificate Standards framework.

All staff can expect to receive instruction and dedicated training as needed in the service's record keeping policies and procedures.

Staff with specific roles and responsibilities for information governance at any level in the organisation can expect to receive the relevant training to achieve required information governance standards, and to implement the GDPR.

#### Associated Documents and References

- **ALL STATED UNDER RELEVANT SECTIONS ABOVE.**

#### Getting Help

**If you require any help with any matters relating to this policy and procedure, please speak to your line manager or Senior manager.**

**It is the responsibility of every member of staff to ensure that they are working within this policy and keep up to date with changes in policy that may affect their practice at work.**