

CONFIDENTIALITY OF SERVICE USER INFORMATION

GUIDANCE FOR ALL STAFF WORKING IN HEALTH AND SOCIAL CARE IN NORTHERN IRELAND

A revised Code of Practice on Protecting the Confidentiality of Service User Information has been communicated throughout the HSC in March 2012. The revised Code is aimed at supporting staff in making good decisions about the protection, use and disclosure of service user information. The original Code was issued in 2009.

The Code of Practice should be the reference point for all staff.

If you are unsure about whether to share service user information with others, 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.

DUTY OF CONFIDENTIALITY

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 legal duty to keep all personal information confidential.

The relationship between health and social care staff and service users should be one of fidelity and trust. Service users have a legitimate expectation that private information will not be used or disclosed without their knowledge and consent. All health and social care staff therefore have strong legal and ethical 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 if there is 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.

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. That said, information should be shared only if this is necessary to provide appropriate 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 to do so. 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
<http://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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