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Information Governance Framework

Schedule 03C

Caldicott Plan

North Lincolnshire Council

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Background Information	
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Author	Information Governance Team.
Document Owner	Information Governance Team.
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1. Introduction

The Caldicott Guardian is a senior person within an organisation who acts as a conscience to protect the confidentiality of patient or social care service user identifiable information and to enable the appropriate sharing of this information. Above all the role is there to ensure the ethical use of this information. Additional guidance is available on the Gov.uk website - https://www.gov.uk/government/groups/uk-caldicott-guardian-council.

Caldicott is considered to be a key element of Information Governance. NHS organisations have been required to have a Caldicott Guardian and adopt the Calicott principles since 1998. This requirement was introduced into Local Authority social care in 2002. North Lincolnshire Council has adopted the eight Caldicott Principles and takes into account any recommendations made as a result of Caldicott reviews.

Data Protection is the primary legislation underpinning Caldicott Guardian activities. The UK General Data Protection Regulation / Data Protection Act 2018 requires organisations to comply with seven principles with close links and overlap between the UK General Data Protection Regulation and the Caldicott Principles.

The council has appointed Caldicott Guardians and this Plan outlines how we comply with the principles and recommendations of Caldicott.

This plan is part of a suite of Information Governance policies and procedures.

2. Scope

This policy applies to all council employees and all individuals or organisations acting on behalf of the council and applies with patient or service user identifiable information is being processed.

3. Caldicott Reports

In 1997 a review chaired by the late Dame Fiona Caldicott was conducted to ascertain how patient identifiable information was being handled in the NHS. The review made 16 recommendations about the use and sharing of patient identifiable information in the NHS and six principles were highlighted, against which any release of health information should be justified. This requirement was expanded to cover social care service user identifiable information.

A second review was also chaired by the late Dame Caldicott during 2013 looked at the balance between the need to share patient or service user identifiable information and protecting confidentiality. This resulted in a report entitled

'Information: To share or not to share?' and the addition of a seventh principle about information sharing, plus 26 recommendations.

A 3rd Caldicott review (Review of Data Security, Consent and Opt-Outs) carried out in 2016 by the late Dame Fiona Caldicott reaffirmed the importance of the Caldicott Principles. The review focused firstly on data security and whether systems could be made strong enough to protect against known and potential dangers without being so restrictive that information could not be shared appropriately among staff providing care. Secondly, the report looked at the basis upon which information is shared and whether people understand who will have legitimate access to their personal data, including when an individual's specific consent is required, when people can consent to or opt out from information being used and when may this be overruled.

As a result the wording of the existing seven Caldicott principles was slightly revised and an eighth Caldicott principle was added, which makes clear that patients' and service users' expectations must be considered and informed when confidential information is used. There was also commitment to publish statutory guidance in 2021 to clarify the role of Caldicott Guardians and which organisations should appoint one.

4. Caldicott Guardian Council

The UK Council of Caldicott Guardians was established in 2005 as an elected body comprised of Guardians from the health and social care communities. The Council, now called the UK Caldicott Guardian Council, is the national body for Caldicott Guardians and is a sub-group of the National Data Guardian's Panel.

The Council has developed 'A Manual for Caldicott Guardians 2017', which offers help in various ways:

- As a starting point for the newly-appointed Caldicott Guardian,
- As an aide memoire for the more experienced, and
- As a pointer to the possibilities for professional development and support.

The Manual can be downloaded from the Council's website at: **https://www.gov.uk/government/groups/uk-caldicott-guardian-council.**

As part of the role, the Council provides advice on the resolution of Caldicott queries.

5. National Data Guardian

The National Data Guardian (NDG) role was created in November 2014 to be an independent champion for patients and the public when it comes to matters of their confidential health and care information. The purpose of the role is to make sure that people's information is kept safe and confidential, and that it is shared when appropriate to achieve better outcomes for patients and service users. The NDG does so by offering advice, guidance and encouragement to the health and care system.

The late Dame Fiona Caldicott was the first National Data Guardian (NDG) from 2014 to February 2021. Dr Nicola Byrne has been named as the government's preferred candidate for the post. The NDG Panel is an independent group of experts that advise and support this work. The Panel is guided by three main principles:

- Encouraging clinicians and other members of care teams to share information to enable joined-up care, better diagnosis and treatment.
- Ensuring there are no surprises to individuals about how their health and care data is being used and that they are given a choice about this.
- Building a dialogue with the public about how information should be used.

In December 2018 the Health and Social Care (National Data Guardian) Act 2018 was passed. The law placed the NDG role on a statutory footing and granted it the power to issue official guidance about the processing of health and adult social care data in England. As a result Dame Fiona Caldicott became the first statutory post holder in April 2019 until her death February 2021.

6. Roles and Responsibilities

The key responsibilities of the Caldicott Guardian are to:

- Be aware of the legal framework governing the management of patient or service user identifiable information.
- Have an understanding of the following and how they work with the Caldicott principles:
  - UK General Data Protection Regulation and the Data Protection Act 2018 should be considered as primary legislation underpinning Caldicott Guardian activities.
  - The Common Law Duty of Confidentiality that is made up from case law.
- Represent patient and service user confidentiality and security issues at the Assurance Board within North Lincolnshire Council.
- Act as the 'conscience' of the council regarding confidentiality, and ensure that high standards are in place for the handling of patient and service user information, both within the council and for data flows to other organisations.
- Ensure that the Caldicott principles are reflected in the policies and procedures for the management and use of personal information.
- Support the Information Governance Team to develop and deliver Caldicott Guardian training and awareness.

2. Advisory Role

- To offer support and advice as required on matters relating to the confidentiality of patient or service user information.
- To offer support and advice about the sharing of patient or service user information.
- To offer support and advice during the investigation of information security incident and data breach investigations, where patient or service user information is potentially at risk.

3. Operational Role

- To make the final decision with the Information Governance Team and Legal Services, if necessary, about issues that arise regarding the protection and use of or sharing of patient or service user personal information, noting that information can be shared when:
  - There is consent from the individual concerned and the individual has capacity;
  - Required by law;
  - In the public interest.

7. Caldicott Approval

Caldicott approval is required:

- If the release of patient or service user identifiable information is being considered in response to a request for information and there are concerns about release.
- If a new process is being considered that will collect, use or share patient or service user identifiable information.
- For information sharing agreements or data processing agreements where patient or service user identifiable information is to be shared, accessed or released.

8. Caldicott Principles

The 1997 2013 and 2016 Caldicott reviews identify the following eight principles:

1. Every proposed use or transfer of confidential information should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed by an appropriate guardian.
2. Confidential information should not be included unless it is necessary for the specified purpose(s) for which the information is used or accessed. The need to identify individuals should be considered at each stage of satisfying the purpose(s) and alternatives used where possible.
3. Where use of confidential information is considered to be necessary, each item of information must be justified so that only the minimum amount of confidential information is included as necessary for a given function.
4. Only those who need access to confidential information should have access to it, and then only to the items that they need to see. This may mean introducing access controls or splitting information flows where one flow is used for several purposes.
5. Action should be taken to ensure that all those handling confidential information understand their responsibilities and obligations to respect the confidentiality of patient and service users.
6. Every use of confidential information must be lawful. All those handling confidential information are responsible for ensuring that their use of and access to that information complies with legal requirements set out in statute and under the common law.
7. Health and social care professionals should have the confidence to share confidential information in the best interests of patients and service users within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies.

8. Inform patients and service users about how their confidential information is used - A range of steps should be taken to ensure no surprises for patients and service users, so they can have clear expectations about how and why their confidential information is used, and what choices they have about this. These steps will vary depending on the use: as a minimum, this should include providing accessible, relevant and appropriate information - in some cases, greater engagement will be required