

Information Governance under the General Data Protection Regulation and NHS Records Management Code of Practice (England) Policy

Introduction

Focus Care link's information governance policy, which is set out here, has developed in line with the following.

1. All organisations and businesses must comply with the Data Protection Act 2018 and the General Data Protection Regulation (GDPR).
2. NHS organisations and those that provide services commissioned by it should follow the NHS Records Management Code of Practice.
3. The Information Commissioner's Office is responsible for the implementation of the Data Protection Act 2018, the GDPR and for investigating breaches of data security.
4. NHS commissioners could seek to ensure that its contractors are applying the NHS Records Management Code of Practice in its information governance.
5. The Care Quality Commission will ensure that care providers information governance and record keeping complies with the relevant sections of Regulation 17 "Good Governance" of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

Definitions

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

- obtained fairly and lawfully
- held securely and confidentially
- recorded accurately and reliably
- 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 this care provider 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, Focus Care Link 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. Focus Care Link 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

Focus Care Link 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

- 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
- Records Management Code of Practice 2021 (applies to NHS and related health and care services).

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)).

Focus Care Link 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 Focus Care Link 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

Focus Care Link recognises that where it is contracted to provide services on behalf of the NHS it should comply with the NHSX Records Management Code of Practice 2021. This applies particularly where an adult social care provider's 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 and Integrated Care Bodies.

Focus Care link also recognises that the NHSX Records Management Code of Practice 2021 provides a framework for establishing good information governance practice generally and it will comply with the standards that it sets.

Scope

The information governance framework for Focus care Link 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 regardless of their formats, including written records, forms, photographs, audio-visual, CCTV records, computer and smart device electronic records.

The component parts

Focus Care Link recognises that it must achieve agreed standards for each aspect of its information governance system, which, following the GDPR requirements and the Records Management Code of Practice require 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 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

Focus Care Link 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.

Audit, review and retention

All records and record-keeping systems are regularly audited and reviewed for their current purpose and quality in line with Focus Care Link's auditing schedules. Records that are no longer needed will be stored or archived safely and securely for the recommended or required retention periods, which the NHS providers and commissioners are set out in the Records Management Code of Practice.

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) Focus Care Link will comply with the eight year retention period stated in Appendix 3 of the Records Management Code of Practice.

Focus Care link recognises that 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 has applied to care homes and domiciliary care services, where they have record-keeping systems that are independent of NHS systems.

Disposal

Focus Care Link 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

Focus Care Link has designated people for information governance in each of its locations and at organisational level. [The exact arrangements will depend on Focus Care Link structure.] This includes the designation of people to be responsible for the co-ordination and completion of any system auditing and reviewing.

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 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 Focus Care Link.

Achieving, Maintaining and Improving Information Governance Standards

Focus Care link 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 Information Commissioners Office in its enforcement of the GDPR and the NHS Records Management Code of Practice.

Focus Care link considers that it is good practice to benchmark their information governance against these standards and to make any improvements indicated.

Focus Care Link considers that it will achieve the recommended 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 in Focus Care Link'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

Focus Care Link 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.

Focus Care Link 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 Focus Care Link's disciplinary proceedings. If Focus Care Link 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.

Focus Care Link 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, Focus Care Link in line with its legal obligations under the GDPR inform the Information Commissioner's Office so that it can investigate.

Related Policies

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
- Records and Record Keeping — Service Users in Care homes (England).

Service Users' Authorised Access to Records Training

New care staff are trained in Focus Care Link'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 Focus Care Link's record keeping policies and procedures.

Staff with specific roles and responsibilities for information governance at any level in Focus Care Link can expect to receive the relevant training to achieve required information

governance standards, and to implement the GDPR and NHS Records Management Code of Practice.

Management

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