

# Information Sharing Protocol

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## 1. Introduction

- 1.1 This Protocol provides a framework for the secure and confidential sharing of information between the community and any voluntary sector member organisations or partners of Healthwatch Cornwall CIC
- 1.2 This Protocol relates to the sharing of information regarding individual organisational members and members of the public
- 1.3 The Protocol:-
  - Outlines for members and members of the public the reasons why information about them may need to be shared and how the consortium member organisation will control this.
  - Identifies the parties to this agreement as in 1.1 and 1.2 above.
  - Sets out the principles that underpin the exchange of information.
  - Defines the purposes for which the consortium have agreed to share information.
  - Sets out the policies and procedures that support the sharing of information, to ensure that such sharing is in line with legal, statutory and common law responsibilities.
- 1.4 The party sharing the information under the Protocol will be responsible for the integrity of any information that they make available.



## 2. Policy Context

- 2.1 The aim of this Protocol is to ensure that information is shared between any external organisations and Healthwatch Cornwall CIC in a legally compliant manner and appropriate format. The sharing of information especially in respect of personal and / or sensitive information relating to a consortium member or member of the public must only take place within the legislative, statutory and common law context that affects the agencies party to this Agreement.

## 3. Local Context

- 3.1 This Protocol identifies the common principles and procedures to be adopted wherever and whenever the parties to the agreement share information.

## 4. Legislative Context

- 4.1 The key legislation and guidance currently relevant to the sharing and disclosure of information includes:

- Data Protection Act 1998 (DPA)

The DPA sets out eight principles of data protection which limit the reasons for which personal data may be obtained and specify how it can be used.

All personal data we hold must be:

- Fairly and lawfully processed
- Processed for limited purposes
- Adequate, relevant and not excessive
- Accurate
- Not kept for longer than necessary
- Processed in accordance with the rights of data subjects
- Secure
- Not transferred to Countries without adequate protection
- Access to Health Records Act 1990
- Crime and Disorder 1998
- Criminal Procedures and Investigations Act 1996



- Human Rights Act 1998
- The Electronic Communications Act 2000
- Freedom of Information Act 2000
- Regulation of Investigatory Powers Act 2000
- Public Interest Disclosure Act 1998
- Care Standards Act 2000
- Common Law Duty of Confidentiality
- Case law, including international case law, will also inform the legal position on aspects of disclosure and information sharing.

4.2 In accordance with the Data Protection Act, for the purposes of this protocol:

- Healthwatch Cornwall CIC is the appointed Data Controller
- Healthwatch Cornwall CIC is also the appointed Data Processors but partners or members may also collect data on behalf of Healthwatch Cornwall
- All data and information will be processed in accordance with these statutory roles and responsibilities.

4.4 Healthwatch Cornwall and organisational members acting on its behalf will apply the six Caldicott Principles as detailed in the Caldicott Report 1997.

### **Caldicott Principles**

Caldicott is the name given to a set of 6 principles, which resulted from a Government investigation, by Dame Fiona Caldicott into confidentiality and security of personal information within the NHS.

These principles and new arrangements were first introduced into the Health Service but have, with effect from 2002, been introduced by the Government for Family Services records.

The Six Caldicott Principles are:

- Justify the purpose
- Do not use personal data unless it is absolutely necessary
- Use the minimum necessary personal data
- Access to personal data should be on a strict need to know basis



- Everyone with access to personal data should be aware of their responsibilities
- Understand and comply with the law

Within this there are 8 Data Protection Principles with which we will also comply, which state that Personal Data must be

- Processed fairly and lawfully
- Processed for specified purposes
- Adequate, relevant and not excessive
- Accurate and up to date
- Not kept for longer than is necessary
- Processed in accordance with the rights of data subjects
- Protected by appropriate security
- Not transferred outside the EEA without adequate protection

## 5. Purposes for which information may be share

5.1 This Protocol applies to the sharing of information between Healthwatch Cornwall CIC and its members, partners and the public of Cornwall, acting on their behalf for the following purposes:

- Gathering the views and experiences of patients, service users and the public and making these views known
- Making reports and recommendations about the improvement of services
- Promoting and supporting the involvement of people in the commissioning, provision and scrutiny of local services
- Recommending investigation and special review of services
- Signposting and information to enable people to make informed choices
- Making the views and experiences of people known to Healthwatch England and other bodies
- Recruiting membership to the Healthwatch Cornwall CIC organisation

5.2 If, as a result of legislation or policy changes or other developments, additional information sharing requirements arise these will be included within the terms of this Agreement.



## 6. Principles guiding the Sharing of Information

- 6.1 The following key principles guide the sharing of information between the parties:
- 6.1.1 Healthwatch Cornwall CIC and its organisational members acting on its behalf as parties to the Protocol endorse, support and promote the accurate, timely, secure and confidential sharing of both person identifiable and anonymous information where such information sharing is essential for the purposes set out in paragraph 5.1 of this Protocol.
- 6.1.2 Healthwatch Cornwall CIC and its partners and organisational members acting on its behalf fully commit to ensuring that if they share information it is in accordance with their legal, statutory and common law duties, and that it meets the requirements of any additional guidance.
- 6.1.4 Healthwatch Cornwall CIC and its partners and organisational members acting on its behalf has in place policies and procedures to meet the requirements for Data Protection. The existence of, and adherence to, such policies provides the members with confidence that information shared will be transferred, received, used, held and disposed of appropriately.
- 6.1.5 Individuals in contact with Healthwatch Cornwall CIC with a view to becoming, a member of Healthwatch Cornwall or being involved in engagement activities will be fully informed about the type of information that is recorded about them and how this will be processed.
- 6.1.6 Healthwatch Cornwall CIC and its partners or organisational members acting on its behalf acknowledge their 'Duty of Confidentiality' to individuals. In requesting release and disclosure of information from other organisations, and / or agencies, staff will respect this responsibility and not seek to override the procedures, which the organisation has in place to ensure that information is not disclosed illegally or inappropriately. This responsibility also extends to third party disclosures.
- 6.1.7 As a minimum, individuals will be informed in writing, at the point at which information is collected, if information is to be shared, the circumstances in which this could happen and who the information may be shared with. Healthwatch Cornwall CIC and its organisational members acting on its behalf will ensure written



consent of the individuals is sought and provided before sharing information.

- 6.1.8 An individual's personal information will only be disclosed where the purpose for which it has been agreed to share clearly requires that this is necessary in accordance with Data Protection principles and the 'Need To Know' principle. For all other purposes information should be anonymous.
- 6.1.9 Where it is agreed to be necessary for information to be shared, only the information needed will be shared and that would only be on a "need to know" basis.
- 6.1.10 Healthwatch Cornwall CIC and its organisational members acting on its behalf recognise that, subject to the appropriate safeguards, individuals have a right to know and be fully informed about information that is recorded about them.
- 6.1.11 Healthwatch Cornwall CIC and its organisational members acting on its behalf will ensure that all relevant staff are aware of, and comply with, their responsibilities in regard both to the confidentiality of information about individuals who are in contact with Healthwatch Cornwall CIC and its organisational members acting on its behalf and to the commitment of Healthwatch Cornwall CIC to share information.
- 6.1.14 Disclosure of personal information, which cannot be justified on legal or statutory grounds, whether intentionally or unintentionally, could be subject to disciplinary action.
- 6.1.15 Information which is already in the **public domain** will be freely shared between parties.



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