

Current local data issues

SUMMARY

- 1.1 The essence of Caldicott 2 was to ensure the sharing of personal confidential data where it is in the interest of the patient and there is a legal basis to do so. Caldicott 2 has clearly supported this specifically in relation to direct patient care.
- 1.2 The transition of public health from the NHS to local authorities, the Health and Social Care Act 2012, increased role and responsibility of the Health and Social Care Information Centre and limited impact of Caldicott 2 along with existing legislation are impacting negatively on our local ability to fully understand our populations, particularly in relation to vulnerable groups. This significantly restricts us from being able to significantly improve the health and wellbeing of our most vulnerable populations and establish the most effective health and social care pathways.
- 1.3 This report outlines some of the key issues and proposes a number of recommendations for the Board to consider.

RECOMMENDATION

- 2.1 For the Health and Wellbeing Board to make formal representation to Department of Health led Task and Finish Group relating to the use of personal confidential data for public health activity stressing its local importance.
- 2.2 The Board approves the establishment of a process of local review and sign off for use of personal confidential data for specific projects. Review of Privacy Impact Assessment and sign off by relevant organisational Caldicott Guardians.
- 2.3 To approve a local review to consider the appropriateness of development of a local authority accredited safe haven and potential of routinely requesting consent from patients/ clients for the use of their personal confidential data for the purposes of improving population health; understanding health and social care need; understanding health inequalities.

REASONS FOR RECOMMENDATION

- 3.1 To enable the Board to fully meet its responsibilities to improve the health and wellbeing of the population and reduce health inequalities.

SUPPORTING INFORMATION

- 4.1 The essence of Caldicott 2 was to ensure the sharing of personal confidential data where it is in the interest of the patient and there is a legal basis to do so. Caldicott 2 has clearly supported this specifically in relation to direct patient care.
- 4.2 The Panel concluded that Public Health Intelligence should seek to use anonymised data (see section 6.3) wherever possible, and should be treated like research from an information governance standpoint when it is not using de-identified data for limited disclosure or limited access.
- 4.3 The Caldicott panel recommended that the Secretary of State for Health should commission a task and finish group to determine whether the information governance issues in registries and public health functions outside health protection and cancer should be covered by specific health service regulations.
- 4.4 For the majority of public health and health and wellbeing work, aggregated or de-identified data is sufficient. For some functions, however, for example, identification of vulnerable groups, understanding of health inequalities etc. patient identifiable data is required.
- 4.5 The Caldicott 2 review states, "Occasionally public health staff...will need access to personal confidential data. In these situations their organisation needs to have a legal basis for holding the data and if they are linking data they should be employed in an accredited safe haven".
- 4.6 The Department of Health agreed with Caldicott 2 that essential public health activity should have statutory support to process confidential personal information where alternative arrangements are insufficient. The Department is leading a review into what is required.
- 4.7 In April 2013 the Health and Social Care Information Centre (HSCIC) was established as an Executive Non Departmental Public Body. The Health and Social Care Act 2012 set out a range of roles and responsibilities of the HSCIC.
- 4.8 Currently the HSCIC is the only organisation currently able to process personal confidential data and are expected to maintain a very significant role in the control, management and processing of personal confidential data.
- 4.9 Regulation 3 of s251 of NHS Act 2006 has been proposed as a route for public health to legally use personal confidential data. Guidance has been in development for some time to provide examples of appropriate use of Regulation 3, however, these are still awaited.
- 4.10 Currently analytical work to support public health and health and wellbeing work is being significantly impacted. For example, recent work in relation to integrated care and urgent care where we are unable to link health and social care data.

OTHER OPTIONS CONSIDERED

5.1 None.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s) Other(s)	Derek Ward, Director of Public Health
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IMPLICATIONS

Financial and Value for Money

- 1.1 Potential financial implications should a data breach be identified and prosecuted with award of a financial penalty.

Legal

- 2.1 Required to hold, share and process personal confidential data in accordance with the law e.g. Data Protection Act.

Personnel

- 3.1 None.

Equalities Impact

- 4.1 None.

Health and Safety

- 5.1 None.

Environmental Sustainability

- 6.1 None.

Asset Management

- 7.1 Health and social care records must be kept in accordance with legal requirements. Information assets must be mapped and assigned to 'asset owners'.

Risk Management

- 8.1 Holding, sharing and processing personal confidential information must be done legally requiring robust management and assurance processes. Boards must ensure that their organisation is competent in information governance and that this is assured through its risk management processes. Failure to appropriately manage information governance risk could result in prosecution, significant fines and loss of reputation.

Corporate objectives and priorities for change

- 9.1 Effective and appropriate information, sharing and processing is essential to fully meet corporate objectives and support identification of priorities for change.