Information governance in the new landscape

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Outline

3 key HSCIC-led projects to pave the way for what lies ahead in IG post- Health & Social Care Act 2012:

   - Minimising privacy and confidentiality risks through de-identification

2. The Caldicott2 Implementation Team and

3. A Code of Practice for Confidential Information
   - Ensuring *effective* internal and system wide information governance
Background: What is the HSCIC?

- Ground-breaking data, information and technology resource for the health and care system - driving better care, better services and better outcomes for patients.
  - Collects, analyses and publishes national data and statistical information.
  - Delivers national IT systems and services to support the health and care system.
  - Reduces bureaucracy and burden in data collections in conjunction with the NHS Confed.
1. Confidentiality Guide: Treating Confidential Information with Respect

Issued under s.265 of the Health and Social Care Act 2012 as guidance (http://www.hscic.gov.uk/confguideorg)

Purpose:
- Cultural change – de-mystify law
- Support Caldicott2
- No surprises
- 5 rules ‘Part of the DNA of staff’
- Supports decision making - information is shared for safe and effective care while privacy and confidentiality is respected
Rule 1

Confidential information about service users or patients should be treated confidentially and respectfully.
Rule 2

Members of a care team should share confidential information when it is needed for the safe and effective care of an individual.
Rule 2: Direct Care Information Sharing Decisions...

Fig 1. Deciding whether to share confidential information for direct care

1. Can consent be implied to support direct care?
   - YES
   - NO

2. Has the individual given informed consent that the confidential information can be shared with a carer or family member?
   - YES
   - NO

3. Is there a duty to share information to safeguard the individual?
   - YES
   - NO

Decision:
- Share the information that is needed for safe and effective care (ensure the recipient understands their obligations of confidence)
- Share the information that is needed to ensure the safety of the individual and protect them from harm
- DO NOT SHARE CONFIDENTIAL INFORMATION
Rule 3

Information that is shared for the benefit of the community should be anonymised
Rule 3: Indirect Care Information Sharing Decisions...

Fig 2. Deciding whether to share or disclose confidential information for the benefit of the community

- Will anonymised information be sufficient for this purpose?
  - YES: Anonymise information according to the HSCIC anonymisation standard or equivalent
  - NO: Adopt appropriate de-identification techniques based on the level of risk of re-identification. If the risk is:
    a. Low – obtain an information sharing contract or agreement
    b. High – obtain assurance of additional controls sufficient to create a ‘trusted environment’

- Will de-identified information be sufficient for this purpose?
  - YES: Share the information
  - NO: Continue with other criteria

- Is there a legal duty to disclose?
  - YES: Ensure individuals are informed, where appropriate, about how their confidential information may be shared or used
  - NO: Continue with other criteria

- Has the individual provided explicit consent?
  - YES: Ensure steps have been taken to use the minimum amount of confidential information necessary to support the purpose/meet the consent given
  - NO: Continue with other criteria

- Does the law allow the duty of confidentiality to be over-ridden? e.g.
  - Section 251 support is available
  - It is sufficiently in the public interest to over-ride the duty of confidence
  - NO: DO NOT SHARE INFORMATION

AND

AND

AND
Rule 3: Minimising risks to privacy and confidentiality through de-identification

1. Will anonymised information be sufficient for the purpose? This sort of information can be published and used without limitations.

2. Will de-identified information (information which identifies an individual has been removed, but there is still some risk of re-identification) be sufficient for the purpose? There are two ways to protect de-identified information so it can be considered to be ‘anonymised’:
   - Where there is a low risk of re-identification, appropriate agreements or contracts can be put in place, which limit how the information can be used.
   - Where there is a higher risk of re-identification, stricter controls can be put in place to create a trusted environment for the information.

Is there a lawful basis to use confidential information?
Rule 4

An individual’s right to object to the sharing of confidential information about them should be respected.
Organisations should put policies, procedures and systems in place to ensure the confidentiality rules are followed.
2. The Caldicott 2 Implementation Team

HSCIC Developing a Caldicott2 Implementation Team to ensure *effective* internal and system wide information governance. They will build on:

- The Government’s Response to Dame Fiona Caldicott’s Information Governance Review Report &
- The Confidentiality Guide

Launched by Dame Fiona Caldicott, Secretary of State and Kingsley Manning, 12 Sept 2013
3. Code of Practice for Confidential Information

s.263 of Health and Social Care Act 2012

- Applies to the collection, analysis, publication and other dissemination of confidential information
- The HSCIC must consult (prior to publication)
  - Secretary of State
  - NHS England
  - Such other persons as HSCIC considers appropriate
- Must be approved by Secretary of State and NHS England
- Due this year
Summary – IG shaping the new landscape

Paving the path for what lies ahead, the HSCIC:
1. Has delivered The Confidentiality Guide - 5 Confidentiality Rules addressing ‘what lies beneath’
2. Is creating the Caldicott2 Implementation Team – guiding orgs. through their journey to ‘what lies ahead’
3. Is developing the Code of Practice for Confidential Information – creating consistency for how to achieve ‘what lies ahead’
Thank you for listening – any questions?