

The Social Care Record Guarantee

***The guarantee for social care
records in England***

Introduction

Your local authority has a range of duties to support and care for those most in need in the community. To do this we provide a range of services, such as:

- assessing your, or your and your carer's, needs;
- providing care in your home;
- taking steps to protect you if you are at risk of harm;
- paying someone to help care for you;
- supporting you in a residential home; and
- providing a foster carer (if you need one).

To do this, we must hold records about you, your personal circumstances and the care you are receiving or may need to receive in the future.

This guarantee is our commitment that we will use records about you in ways that respect your rights and promote your health and wellbeing.

If you are registered with a GP, you will already have a health record that is protected by a similar guarantee to this one.

We use records about you to:

- make decisions about your personal care;
- help us to work with you and agree the care you need;
- make sure your care is safe and effective; and
- work effectively with others who also provide you with care.

Others in your local authority may need to use some information about you to:

- manage care services;
- train social care workers and other care workers;
- help investigate any worries or complaints you have about your care;
- keep track of spending on care services;
- check the quality of care; and
- help with research and planning new services.

You have a right to:

- expect your information to be kept confidential under the Data Protection Act 1998, the Human Rights Act 1998, and other relevant laws;
- ask for a copy of all records about you under the Data Protection Act 1998 (you may have to pay a fee);
- choose who can see your information; and
- choose someone to make decisions about your care if you cannot (this is called 'a lasting power of attorney').

We have a duty to:

- keep full and accurate records of the care we provide to you; and
- keep records about you confidential, secure and accurate.

It is good practice for those who provide your care to:

- discuss and agree with you what they plan to record about you;
- give you a copy of letters and other documents they write about you;
- show you what they have recorded about you;
- ask for your permission to share your information with others; and
- let you know what they have told other people about you, and who the other people are.

The electronic social care record

Local authorities are working to introduce computer systems which will hold all the information we need to support your care.

This will include:

- letters you or other people send us;
- information from your GP;
- details of who else may be providing you with care; and
- the information that you give us when we assess your care needs.

These systems will hold your records about you securely. They will also allow the right people to see your records (if this is needed for your care), while maintaining your confidentiality.

We will use these systems to:

- help us share information about you with other care providers (such as the NHS), if you have agreed this can happen or, in exceptional cases, without your permission (see information on following pages);
- make sure that only those people involved in your care have access to records about your care;
- show only the parts of your records needed for your care;

- allow only authorised people to access your records;
- help us use information about your care to improve the services we offer, in a way that does not reveal your identity; and
- identify any changes in your records and when the changes were made.

These systems are managed in line with internationally approved information security standards.

Our commitments to you

- 1 We would normally expect to share what we record about you with you whenever we assess your needs or provide you with services. However, you also have the right to ask for all the information we have about you and your care. When we receive a request from you in writing, we must normally give you access to everything we have recorded about you. However, we will not let you see any parts of your record which contain:

 - confidential information about other people; or
 - information a care professional thinks will cause serious harm to your or someone else's physical or mental wellbeing.

This applies to paper and electronic records. If you ask us, we will also let others see your care record (except if one of the points above applies).

Wherever possible and as allowed by law, we will not charge you for a copy of your care records. If we have to charge you, we will make this charge as small as possible. If you cannot ask for your records in writing, we will make sure there are other ways you can apply.

- 2 When you ask us to provide care, we will make your care record available to the people providing care or checking its quality, if you have given them permission to do so. They must keep the information confidential, whether it is on the computer system or in another format, such as on paper.

We will aim to only give people the information they need to play their part in your care.

3 We will not share information that identifies you, unless:

- you ask us to;
- we ask and you give us permission;
- we have to do this by law (see the information on the next page); or
- we have good reason to believe that not sharing the information would put someone else at risk (see the information on the next page).

If we share information without your permission, we will make sure that we follow national guidelines on best practice.

When we might use or share information without asking you

- Sometimes we have a legal duty to give information about people. This is often because we must give that information to courts, including:
 - when we take a child into care;
 - court orders; and
 - cases under mental health law.
- We may also share your personal information when we feel there is a good reason that is more important than protecting your confidentiality. This does not happen often, but we may share your information:
 - if a serious crime has been committed;
 - if there are serious risks to the public, our staff or to other professionals;
 - to protect a child; or
 - to protect adults who are thought to be at risk, for example if they are frail, confused or cannot understand what is happening to them.

The law does not allow us to share your information without your permission, unless there is proof that someone is at risk. This risk must be identified as being serious before we can go against your right to confidentiality.

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When we are worried about your physical safety or we feel that we need to take action to protect you from being harmed in other ways, we will discuss this with you and, if possible, get your permission to tell others about your situation. We may still share your information if we believe the risk to others is serious enough to do so.

There may also be rare occasions when the risk to others is so great that we need to share the information straight away. If this is the case, we will make sure that we record the information we share and our reasons for doing so. We will let you know what we have done and why as soon as we think it is safe to do so.

- 4 Apart from in the situations explained above, you are the only person who is able to make decisions about how your care information can be shared. If you are a child or young person, your parents or legal guardians may be able to help you make those decisions, or they will make them on your behalf. However, if you are not able to make decisions about sharing information, the professionals involved in your care may decide that sharing the information will be in your best interests. They must take into account your relatives' and carers' views.
- 5 Sometimes a 'care team' will provide your care. This might include health workers and people from other services, such as housing services or people from voluntary organisations. When we need to share information about you with these people, including those from the NHS, we will agree this with you.

Your care team

You may receive care and support from a number of people, depending on your needs. These people may include:

- social workers and occupational therapists working for the local authority;
- care workers employed by the local authority;
- care workers employed by private care providers, who have been contracted to care for you;
- your GP;
- nurses, health visitors and other health professionals who work for the NHS;
- people from voluntary organisations (such as Help the Aged) who may visit you, arrange trips or support you in other ways; and
- teachers, education support workers and workers in other children's services, who have been asked to support you or your child's needs.

- 6** You can choose not to give us permission to share your records. This will not stop you from receiving care, but may limit how we are able to support you. To help you decide, we will discuss with you how this may affect our ability to provide you with care, and any other options you have.

- 7** We will deal with your questions, worries and complaints about how we use information about you fairly and efficiently. All local authorities have customer relations services, which are able to answer your questions, give you information, advice and support and tell you how to make a complaint. We will have a clear complaints procedure. We will use what we learn from your worries and complaints to improve our services.
- 8** We will make sure the information we have about you is accurate, and we will say where it came from. You will be given opportunities to check your records and tell us about any mistakes. We would normally correct any information that is not accurate. If you are not happy with an opinion or observation that is in your records, we will add your comments to your records. If you are suffering serious distress or harm as a result of information in your record, you can ask us to remove or alter this information.
- 9** We will make sure that everyone who works with you to provide your care, and the staff who support them, understand their duty of confidentiality, what it means and how it applies to all parts of their work. Organisations who work for your local authority must follow the same policies and controls as the local authority. We will make sure that they do so.
- 10** We will take appropriate steps to make sure we hold records about you (on paper and electronically) in a secure way, and we will only make them available to those who have a right to see them.

- 11** We will keep a record of everyone who has permission to look at your care information. You will be able to ask for a list of all the people who can look at records about you.

There may be times when someone will need to look at information about you without having permission to do so. This may be allowed, for example if you need emergency care. When this happens, it will be recorded and you will be told about this.

- 12** If we find that someone has deliberately accessed records about you without permission or good reason, we will take action. This can include disciplinary action, ending a contract, firing an employee or bringing criminal charges. We will tell you if this happens.

What you can do

- 1** Tell us about any information in your records which is wrong, so we can alter or update it.
- 2** Allow us to share as much information about you as we need to provide you with support and care.
- 3** If you do not give us permission to share your information, we may not be able to provide you with appropriate care. If you change your mind, please let us know, so that we can meet your needs in a better way.
- 4** Only give insurers, mortgage lenders, employers, solicitors and so on access to records if you are sure it is necessary. Think carefully about who you give permission to and why. Try to restrict their access to what they need to know and no more.
- 5** At some time, we might ask your permission to use records which could identify you, so we can carry out research. We will always explain why we are carrying out the research. Please give us permission to use your records, unless you feel strongly that you do not want your information used in this way.

For parents and young people

Introduction

Whenever we are involved with supporting or caring for a young person, we will create a care record for them. If a young person is involved with us because they are caring for a parent or relative, or because we are working with another young person in their family, we will make sure that we keep information about them in a separate record to respect their rights to confidentiality.

Care records are important for the wellbeing of children and young people, as they contain details of the care and support we are giving them and why they need our help. This information is also important to parents, especially when their children are young. 'Parents' includes birth parents and anyone else who has been given parental responsibility for a child either by agreement from the birth mother or by a court. On some occasions this responsibility may have been given to the local authority.

As they grow up, children become more able to make decisions for themselves. They should be helped to do so and be involved with decisions about their care whenever possible.

Parents

If you are a parent of a child who cannot make their own decisions, we will let you see your child's record or give you a copy if you ask, unless we think the child will be put at risk if we do so. If your child is able to understand and make decisions, we will ask them to agree to share their record with you. Your child's care record will probably contain some information about you. We will ask for your permission before we show it to your child.

Young person

If you are a young person who can understand and make decisions for yourself, we will let you see your record and give you a copy if you ask. We will also ask you if we can share the information in your record with others, such as your parents, your teacher or your doctor. If you do not give us your permission to share information about you, we will not do so, unless there is something we think someone needs to know to prevent you or someone else suffering harm.

Even if you have agreed that your record can be shared in the past, you can, at any time, ask someone giving you care not to share information with your parents or anyone else. Again, we will agree to this unless we think it will put you or someone else in danger.

Young people and parents

We will encourage you and your parents or your guardian to make decisions about the care record together. If you disagree about who can see the care record, your social worker will ask for advice from someone who is responsible for protecting the privacy of our service users.

Sharing information

When we believe it is best for a child's care to share personal information, we will normally ask before we do so.

Sometimes we have to share information without a child's permission or their parent's permission (as shown on page 8), particularly when we are worried about a child's safety and we feel that asking for permission could put the child at risk.

Your local authority will publish a statement saying how they plan to keep your information safe and secure in their systems. You will be able to see this statement on your local authority's website, or you can ask them for a copy.

How to complain

If you feel we are not following the commitments in this guarantee, you should tell us. You should write to your local authority, either through the social work team responsible for your care, or to the local authority's customer care or complaints team. When they receive your complaint, they will investigate it and send you a response.

Plans for the future

Over the next few years, we want to develop the electronic social care record. We want to give you more control over who will be able to access and use records about your care.

We plan to let you access your care record on the internet. We will work with our partners in the NHS to make sure that your access to your care record is as secure as access to your health records.

We also plan to allow care professionals to hide items from you in the electronic record, that:

- give confidential information about another person;
- or
- might be considered to cause you serious harm or distress.

This will make it easier for our staff to continue to keep to the Data Protection Act 1998. We will develop processes to help us review any 'hidden' information, so that you can see all of the information you have a right to see.

As computer systems change, we will ask you to check the records about you to make sure they are accurate. You can also add your own comments (if appropriate).

You can get more information about your rights under the Data Protection Act 1998 from:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Phone: 08456 30 60 60 Website: www.ico.gov.uk

The Social Care Record Guarantee for England was produced by the members of the Electronic Social Care Record Implementation Board in 2009.

The National Information Governance Board for Health and Social Care will review this guarantee at least once a year to make sure it continues to reflect best practice, professional guidelines and the law.

The National Information Governance Board for Health and Social Care is grateful to everyone who helped to produce this guarantee.

You can find out more about the NIGB on its website at www.nigb.nhs.uk or you can contact the board by:

- emailing nigb@nhs.net;
- phoning 0207 633 7052; or
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