

## NHS Education for Scotland

### Board Paper Summary

1. Title of Paper

NES review of compliance with Caldicott requirements

2. Author(s) of Paper

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3. Purpose of Paper

To provide information on the background to the Caldicott requirements and to present a summary of NES's compliance with Caldicott over the 2012 calendar year.

4. Key Issues

The default position of NES is to avoid holding or processing Patient Identifiable Information (PII). The paper outlines the assurance measures, as well as processes for managing PII securely for recognised exceptions.

5. Educational Implications

Training grade staff in dentistry, medicine, pharmacy and psychology are made aware of the governance of PII and their professional obligations.

6. Financial Implications

None.

7. Relevance to Strategic Work Plan 'Pillars'

Ensuring appropriate data management is relevant to the Educational Infrastructure pillar.

8. Relevance to 'Better Health, Better Care'

N/A

9. Key Risks and Proposals to Mitigate the Risks

Ongoing monitoring is in place. Mitigation controls are described in the paper.

12. Recommendation(s) for Decision

The NES Board is asked to note the level of risk associated with the management of Patient Identifiable Information (PII) within the clinical directorates of NHS Education for Scotland.

NES  
March 2014  
SI

## 2013 report

### NES Review of Compliance with Caldicott Requirements

#### 1. Background

The Caldicott Committee was set up to review how patient identifiable information (PII), clinical and non clinical, was passed from NHS organisations in England to other NHS and non-NHS bodies for purposes other than direct patient care, medical research, or where there was a statutory requirement to provide information. The Caldicott Report was published in December 1997.

A key recommendation of the Caldicott report was the establishment of a network of 'Caldicott Guardians' of patient information throughout the NHS. The Caldicott Committee recommendations were adopted in Scotland shortly after December 1997 and the role and responsibilities of the Caldicott Guardians were set out in NHS Scotland in MEL (1999) 19.

Each NHS Board and Special Health Board has a Caldicott Guardian. The Guardian is generally a senior health professional at Board level who has a degree of responsibility for the development of clinical governance. The Guardian's responsibilities include:

#### **Auditing current practice and procedures**

Guardians are responsible for agreeing and reviewing internal protocols governing the protection and use of PII by the staff of their organisation or those shared with other NHS Scotland organisations. Guardians need to be satisfied that the internal protocols address the requirements of national guidance and policy and that their operation is monitored.

#### **Managing an improvement plan which is monitored through the clinical and corporate governance frameworks**

Guardians draw up and implement an annual improvement plan based around the reporting back template provided in the Caldicott manual.

#### **Developing protocols to govern the disclosure of patient information to other organisations**

Guardians agree and review protocols governing the disclosure of patient information across organisational boundaries e.g social work services and other partner organisations contributing to the local provision of care.

#### **Making decisions about how their organisation uses PII**

Local issues regarding PII are referred to the Guardian for resolution. It is important that the Guardian knows when and where to seek advice e.g Data Protection Officers and IT Security Officers.

## **2. Review of Compliance with Caldicott**

In late 2012 the Caldicott Guardian wrote to all professional leads in NES and asked them to review compliance with Caldicott guidelines .The responses indicate:

### **2.1 Dentistry**

Direct access to PII is not a part of NES Dental Directorate core business. No NES personnel manage or access PII.

#### **Vocational Training**

All Vocational Dental Practitioners (VDPs), Vocational Dental Hygienist-Therapists (VDHTs) and trainers have the Caldicott arrangements explained to them at induction and are expected to adhere to the code of conduct. A written MoU between NES and trainee explicitly covers Caldicott guidelines and is signed by all trainees at induction or very shortly afterwards. The VT Trainer-trainee contract covers the trainee's responsibility under Caldicott and is signed by both trainer and trainee. All trainers are self employed general dental practitioners contracted to NHS Boards or are direct employees of NHS boards. VDPs are employed by the trainers and the use of PII in practices is governed by NHS Board and NHS Data Protection legislation.

Caldicott guidelines are specifically addressed as part of the START (Scottish Trainer Training) course.

Directors, advisers and NES commissioned visitors are no longer involved in practice inspections so have no access to PII in the role of inspectors.

Trainees are explicitly advised to avoid the use of PII in the ePortfolio and guidance is given about protecting PII and the use of clinical case materials for teaching or research purposes. Trainees are explicitly made aware of their responsibilities on managing PII when their work is recorded on video, audio tape or by photographs.

VT Advisers conducting workplace based assessments or mid year visits to VDPs and their trainers, review VDPs' progress without access to PII. These visits reinforce the importance of appropriate professional behaviour in a number of specific areas including regard for the confidentiality of PII.

#### **Trainees in Hospital Dental Service and Salaried Dental Service**

Trainees in HDS and SDS are employed by an NHS Board or a University where for access to patients they will hold an Honorary NHS contract. Use of PII is governed by NHS Board policies and NHS Data Protection legislation. Induction programmes cover issues around PII. Dentists in training are also required to be familiar with and adhere to the guidance documents from the General Dental Council.

Further reinforcement occurs during annual trainee reviews (RITA and ARCP), when individual trainees present their learning portfolios for scrutiny. These contain logged materials and any instance of PII would be evident and the trainee would be immediately instructed to remove the offending materials.

### **Clinical audit**

Specific PII is not included during the processing of audit applications and reports. Written advice is available to all GDPs undertaking Significant Event Analysis (SEA) stressing the requirement of complete anonymity for both patients and dental care professionals during report writing.

### **CPD activities**

Clinical Tutors and DCP Tutors are employed by NES and are also GDPs who are aware of PII and Data protection responsibilities and ensure no PII is disclosed during CPD activities.

Educational material developed by the Directorate adheres to the Caldicott principles.

### **DCP training and Dental Nurse training.**

The same general principles apply to these areas of activity. All tutors are issued with Caldicott Principles and instruction during induction to the post. Caldicott principles are included in the induction courses provided by NES for all dental nurses entering training, irrespective of whether that training is ultimately provided by NES or by an external provider.

Trainees are explicitly advised to avoid the use of PII in their portfolio of evidence.

### **IQE training, KIT & Returning and retraining dentists.**

No PII is handled during training in these areas.

### **Introductory Courses to Overseas dentists.**

No PII is used during these courses all participants have had the Caldicott arrangements explained to them and are expected to adhere to this code of conduct.

### **In-Practice Decontamination Training**

Tutors are employed by NES and are trained Dental Nurses who are aware of PII and their responsibilities under Data Protection Act and ensure no PII is disclosed during training activities.

### **Undergraduate /postgraduate interface, practice visits and Outreach.**

No PII is processed by NES during these activities. Tutors and students are issued with clear guidelines relating to PII and Data Protection.

### **Research**

From time to time research projects are undertaken in VT training practices but the research methodology is designed to avoid the recording of PII. Local Ethics Committee approval is obtained for each research project.

### **Reporting**

Compliers of reports of educational activities for regional and national meetings are issued with clear guidelines relating to PII and Data Protection.

## Summary

In general the risks of mismanagement of PII in NES related activities in the Dental Directorate is low and the level of attention to the Caldicott Principles is generally high. Clear guidelines will continue to be issued annually to all NES staff, trainees and trainers.

## 2.2 Medicine

Direct access to and use of PII is not core business for the Medical Directorate either centrally or within the Postgraduate Deaneries. Neither Deanery Management Teams nor their support teams manage or access PII. The only exception to this relates to a specific issue within the context of training in General Practice (see below).

### 2.2.1 Doctors in Training

All doctors in training are employed by an NHS Board or a University where for access to patients they will hold an Honorary NHS contract. Use of PII is governed by NHS Board policies and NHS information governance standards. Deaneries require that employers' induction programmes cover issues around PII. Doctors in training are also required to be familiar with and adhere to the GMC code of conduct.

GPSTs are employed by NES, although data protection and Caldicott responsibilities reside with the practice.

Further reinforcement occurs during annual trainee reviews (RITA and ARCP), when individual trainees present their learning portfolios for scrutiny. These contain logged materials and any instance of PII would be evident and the trainee would be immediately instructed to remove the offending materials.

Particular vigilance is exercised to ensure trainee **ePortfolio** data is free of inadvertent embedded PII, not immediately visible, but nevertheless retrievable. Foundation and speciality trainees are explicitly advised not to use any PII in their educational log books, and guidance is given about protecting PII in the use of clinical case materials for teaching, assessment or research purposes. ePortfolio displays an automated pop-up warning every time new information that may relate to patient care is entered. . A recent audit of ePortfolio recorded data revealed minimal inclusion of PII.

General Practice specialist trainees (GPSTs) are explicitly made aware of their responsibilities around managing PII when their clinical work is recorded on video or audio tape (see below). The conduct of assessments reinforces the importance of appropriate professional behaviour in a number of specific areas including regard for the confidentiality of PII.

### 2.2.2 Associate Postgraduate Deans, Foundation and Training Programme Directors, and GP Associate Advisers (sessionally remunerated by NES)

These sessional staff (generally not employed by NES) are also bound by NHS Board and GMC guidelines regarding PII.

### 2.2.3 Practice Staff and GP Trainers (not funded directly/indirectly by NES)

There is specific teaching in support of the Caldicott principles both in the 'Professional Issues' component of training and in research for practice staff and GP trainers. These are tied to the issues surrounding PII as this is integral to their delivery of clinical service. This issue is covered at the Scottish National Trainers Course and during regional workshops.

#### 2.2.4 General Practice Training

The first of the two relevant areas is related to **audit and significant event analysis**. The systems which have been set up do not involve patient identifiable information and GPST Training does not consider this a problem area.

The second area where there are potential issues relating to the transfer of PII is during review of **doctor consultations with patients**. Consultation peer review has proved both acceptable and feasible for individual GPs with the educational emphasis on patient centered consulting. It is now an important part of teaching both for doctors in training and established doctors returning to NHS practice.

Following GMC guidance all patients who have their consultations recorded are informed and sign a consent form both pre and post consultation. They are also able to ask the GP/GPST to delete their consultation at any time thereafter. The data files are encrypted and delivered for peer review by a trusted hand or sent by registered post.

Consultation peer review has been incorporated into both Scottish Prospective Educational Supervisor Course (SPESC) and is a component of the NES Returners to General Practice Scheme.

In recent years GPs, GPST trainers and GPSTs in Scotland have used VHS video to record their consultations. However changes in technology and widespread use of digital camcorders have resulted in data being saved onto DVDs or memory sticks. Consultations are viewed in the surgery, but occasionally these files are taken to district training sessions or calibration meetings elsewhere. GP returners are required to submit 4 consultations to the National GP Peer Review process.

The recent general concern regarding data security has initiated a review of our procedures. Advice has been taken from the Information Commissioner's Office for the Scottish Government and procedures benchmarked against the eHealth Mobile Data Protection Standard. The guidance regarding encryption and transportation by "trusted hand" and the need to destroy all copies of the data is particularly relevant.

Encrypting all digital video recordings that contain PII and will be viewed outside of the GP practice where they were recorded is now current practice. GPs use standard digital video recorders and transfer the information to their secure NHS computers for this purpose. The digital recording is then transferred to an encrypted memory stick.. This system has been piloted successfully in West of Scotland, and in this area GPs and GPSTs are routinely using appropriate encrypted memory sticks to save their digital video data. GPs and GPSTs in other areas have now adopted this approach. All GPs and GPSTs making digital files of their consultations are aware that they are responsible for the security of these files. Digital Video recordings used by GP returners follow the same processes as for GPSTs.

#### Summary

General practice has reviewed their procedures to reflect the new guidance. However, the risk has to be weighed against the benefits both for doctors and patients. This is low risk and is very much reduced by using encrypted memory sticks. However to ensure this system is in place throughout



Scotland ongoing communication and cooperation with individual Health Board IT departments will be encouraged and maintained.

### **2.2.5 Conclusion**

In the medical directorates, in general the risks of mismanagement of PII in NES related activities are known to be low and the level of attention to the Caldicott principles is generally high.

## 2.3 Nursing Midwifery and Allied Health Professionals

### Within NMAHP

Direct access to PII is not NMAHP core business. Neither the Director of Nursing, Midwifery and Allied Health Professions or the majority of the remaining staff within the Directorate manage or access PII.

### Trainees

Pre-registration Nursing, Midwifery & Allied Health profession students are not governed by NES, but by their own University. NHS staff undertaking NES supported education are not employed by NES, but by NHS Health Boards and/or other health and social care employers.

### Seconded Nursing, Midwifery & Allied Health Professions staff

Staff seconded from NHS Boards remain bound by their employing Board's guidelines regarding PII.

### e-Portfolio

Particular vigilance is exercised in the use of e-portfolio by nurses and midwives. Guidance and training reinforces the requirement to ensure no PII is included in any materials. E-portfolio displays an automated pop-up warning when new information is entered that may relate to patient care.

### Distance Learning Audit/Research

Considerable care is taken to ensure that the use of PII is avoided at all times by trainers and trainees in the delivery and use of all distance learning materials whether in electronic or hard copy formats.

### Family Nurse Partnership

1. Specific members of staff within FNP National Unit have theoretical access to PII via the FNP Scottish Information System (FNP SIS). Staff build and edit data reports and also undertake system administration of the data entry side of the system. FNP SIS is a specific instance of the MiDIS platform which is hosted by NHS Tayside. The system is updated near-continuously and is accessed through a secure web-based portal on the N3 network.
2. The purpose for receiving PII is to monitor fidelity to the FNP licence agreement which exists between the Scottish Government and the University of Colorado in Denver (UCD). Reports are used by staff at FNP sites in various Health Boards to manage nurse caseloads, for continuous performance improvement and to identify clinical issues among clients on the programme.
3. Specific staff at the FNP NU (The FNP Research and Information Manager and the FNP Information Analyst) build and edit data reports. During building of reports, these staff have access to a range of PII as FNP SIS pulls demographic data from the national CHI registry. These staff endeavour to avoid including explicitly PII fields during their analysis (CHI numbers, names, addresses, dates of birth) but are occasionally required to include some of these data in order to produce reports that will be fit for purpose. In general, however, reports contain aggregated, anonymised data where the primary client identifier (should it be required) is one that is unique to the programme. As system administrators

for the data entry side of FNP SIS, these staff also have theoretical access to a range of client-level records but do not access any of these unless a specific request is made in writing from staff within FNP sites. An audit trail within FNP SIS would confirm that national-level users have not accessed individual patient records in the 'front end' of the system.

4. FNP data reports are accessed through a secure web portal. The system itself, housed at NHS Tayside, has the facility to store specific reports online without the need to download data to NES. During report development, it was necessary to download excel versions of reports for data verification purposes. Such files were password protected and stored in a specific area of the Alfresco system which can only be accessed by the FNP Research & Information Officer and the FNP Info Analyst. Where it was necessary to store such files, they were deleted after they were no longer required centrally.

In addition to the above, the FNP National Unit have an Information Sharing Protocol which is signed by all boards who are implementing FNP. A copy of this ISP is available on request. In essence, boards agree that staff at the FNP NU are competent to view PII relating to their own clients and that their data can be housed within the servers of the MiDIS consortium at NHS Tayside. This arrangement has replaced the previous situation whereby the FNP RIO signed honorary contracts with all NHS Boards.

5. PII is shared only with the relevant health boards. Aggregated, national-level data are shared with the Scottish Government (and other bodies) on request.

6. Arrangements are in place so that PII transmission from the FNP NU in NES to boards will be limited. Local teams will shortly be able to access the reporting system so that they can view reports with data pertaining to their own board only. Until this solution is implemented, NU staff will create excel versions of reports, add encryption and then transmit to nominated nhs.net mailboxes.

7. All members of staff within the FNP National Unit have undertaken Information Governance training. Analytical staff are in frequent contact with the NES Information Governance Manager to seek advice and to raise queries.

### **Practice Educators**

12 WTE practice educators are employed by NES and based in clinical Health Boards. Specific guidance on the Caldicott principles have been included in their induction and development programmes.

### **Educational Resource Development**

Increasingly patients/service users of health and social care in Scotland are identified within staff educational resources such as podcasts, video clips etc. All NES staff involved in direct and indirect contact with the service users in the development of the educational resources comply with the Caldicott principles.

## Conclusion

In general, the risks of mismanagement of PII in NES related activities in Nursing, Midwifery and Allied Health Professions are thought to be low and attention to the Caldicott principles is generally high.

## **2.4 Pharmacy**

In general terms, pharmacists must comply with their professional Code of Ethics and Practice, with relation to patient confidentiality.

Direct access to PII is not part of NES Pharmacy core business. NES Pharmacy staff, Director, Assistant Directors and Postgraduate Tutors do not manage or access PII.

### **NES PRPS and Pharmacy Vocational Training Scheme trainees**

All NES pre-registration students (PRPS) Vocational Pharmacy Practitioners (Pharmacy VTS) and tutors have the Caldicott arrangements explained to them at induction and are expected to adhere to the code of conduct. Trainees are explicitly advised to avoid the use of PII in the PRPS e portfolio and VTS paper-based portfolio.

### **NES Pharmacy Educational Provision**

NES Pharmacy does access simulated case studies for illustration of clinical situations in Pharmaceutical Care. To date, these have been patient-related but not with any 'real' patients data.

In the future, with the increased use of electronic transmission of information, it is possible that NES Pharmacy will utilise patient-related case information (such as case notes for new prescribers) for educational purposes. Any such potential case notes would not contain any patient identifiable information when used for educational purposes. However, it would be helpful to keep this situation under review in the future if circumstances change.

### **Significant Event Analysis (SEA)**

All practitioners submitting an SEA to NES Pharmacy are explicitly advised to avoid the use of PII in line with the SEA system currently running in NES General Practice. Systems have been set up that do not involve patient identifiable information.

### **Pharmacist's consultations with patients**

This is an important part of teaching particularly for pharmacists who are qualified prescribers with the educational emphasis on patient centered consulting. NES Pharmacy offers this service to pharmacists in line with the system currently running in NES General Practice. In the past DVDs have been used to view patient consultations, however, as in general medical practice, these consultations are now stored on an encrypted memory stick, which is sent to any pharmacist wishing to submit.

All patients who are video taped sign a consent form pre and post consultation and are free to ask the pharmacist to delete their consultation at any time thereafter. The encrypted sticks are hand delivered or sent by registered post. The consent has followed GMC guidance.

NES Pharmacy has 3 members of staff who have responsibility within their job description for managing the day to day running of this service. All are very aware of Caldicott confidentiality and security. The number of submitted consultations is approximately 10-15 per annum. There is a system in place for logging incidents of non-compliance to the new encrypted procedure. No such incidents have been recorded.

## 2.5 Psychology

All training grade staff are employed by NHS Scotland. Use of PII is governed by NHS Board and NHS Data Protection Legislation. Specific guidance about PII is given to trainees on induction both in the academic component of the clinical psychology programme and at service level.

Trainees are explicitly advised to avoid the use of PII in their placement logs and case study reports, and guidance is given about protecting PII in the use of clinical case materials for teaching and research purposes. Trainees are explicitly made aware of their responsibilities in managing PII when their clinical work is recorded on video or audio tape.

There is specific teaching in support of the Caldicott principles in both the Professional and Ethical Issues components of training and in research of all the Scottish Postgraduate training courses for clinical psychologists and psychological therapists.

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There is specific teaching in support of the Caldicott principles in both the Professional and Ethical Issues components of training and in research of all the Scottish postgraduate training courses for clinical psychologists and psychological therapists commissioned by NES.

### **Psychology of Parenting Project (PoPP).**

Arrangements are in place between the Public Health and Intelligence business unit of NHS National Services Scotland (the former Information Services Division), and NHS Education for Scotland regarding storage and use of PoPP data held in the newly developed PoPP Database.

The data are owned by NES, and the database has been built at NHS National Services Scotland. The Caldicott Guardian and Information Governance Officer from both organisations have reviewed internal procedures for use, development and storage of the PoPP data, and were satisfied that internal protocols address the requirements of national guidance and policy, and that their operation is monitored.

Patient identifiable information (PII) held on the PoPP database includes data on the children and families enrolled in the national Psychology of Parenting (PoP) programme. These data are required to assess the impact and reach of the Psychology of Parenting programme. Direct access to the patient identifiable information is via a password protected database and access has only been granted to those individuals working on the database. Those individuals with access are aware of their responsibilities to maintain confidentiality and comply with the Data Protection Act and have completed training on data security.

### 3 Conclusion

In general the risks of inappropriate disclosure of PII in all the workstreams within NES are thought to be low and the level of attention to the Caldicott principles is generally high. There remains a risk in Dentistry, Medicine and Pharmacy around the use of e-portfolios and video consultations. Postgraduate Deans, tutors and advisers continue to maintain high awareness of the risk, ensure “at risk” groups are kept aware of their obligations, and employ new technology wherever possible to minimise the risk.