NHS Rotherham Clinical Commissioning Governing Body

Operational Executive – 18th May 2018

Audit and Quality Assurance Committee – 4th September 2018

GP Members Committee (GPMC) – Date

Clinical Commissioning Group Governing Body - 3rd October 2018

Records Management Policy

Lead Executive:	Wendy Allott, Chief Finance Officer
Lead Officer:	Andrew Clayton, Head of Health Informatics
Lead GP:	Dr Richard Cullen, Chair and GP IT Lead

Purpose:
For the RCCG Governing Body to review the CCG's revised Records Management Policy.
Background:
The Records Management Policy has been reviewed and revised to ensure compliance with the forthcoming General Data Protection Regulation (GDPR) The policy was reviewed and accepted by the Information Governance Group in April 2018 and the OE in May 2018.
Analysis of key issues and of risks
There have been no major changes to the content of the policy from the previous version. Changes made (highlighted in yellow) include: • References to the new General Data Protection Regulation/Data Protection Act 2018 • Updated references to new Data Security and Protection Toolkit
Patient, Public and Stakeholder Involvement:
N/A
Equality Impact:
Neutral impact
Financial Implications:
N/A
Human Resource Implications:
N/A
Procurement:
N/A
Approval history:
Agreed at the Information Governance Group in April and OE in May for escalation to AQuA.
Recommendations:
The RCCG Governing Body are requested to approve the revised Records Management Policy .

NHS
Rotherham
Clinical Commissioning Group

Title:	Records Mangagment Policy
Reference No:	
Owner:	Information Governance Group
Author:	Senior IG Specialist – eMBED Health Consoritum
First Issued On:	March 2005
Latest Issue Date:	March 2018
Operational Date:	June 2018
Review Date:	March 2020
Consultation Process:	
Ratified and Approved by:	AQuA XXXX 2018 Governing Body XXXX2018
Distribution:	All staff of the CCG
Compliance:	Mandatory for all permanent and temporary employees of Rotherham CCG
Equality and Diversity Statement:	In applying this policy, the organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristic.

KEY LEGISLATION AND GUIDANCE:

- Public Records Acts 1958 and 1967
- Public Records Act Records Management Standards 1998
- Public Records Office, Requirements for Electronic Records Management Systems 2002
- Records Management Code of Practice for Health and Social Care 2016
- Controls Assurance Standard for Records Management
- Code of Openness in the NHS
- European Directive on Data Protection 1995/46C
- Access to Health Records Act 1990
- Freedom of Information Act 2000
- Lord Chancellors Code of Practice on the Management of Records, Issued under section 46 of the Freedom of Information Act 2000
- Environmental Information Regulations 2004
- European Directive on Environmental Information 2003/4 EC
- Crime and Disorder Act 1998
- Regulatory and Investigatory Powers Act 2000
- Common Law Duty of Confidentiality
- Human Rights Act 1998
- Mental Capacity Act 1995 and Code of Practice 2007
- Health and Social Care Acts 2001,2008 and 2012
- Health and Social Care (Safety and Quality) Act 2015NHS Act 2006
- Computer Misuse Act 1990
- Caldicott Report 1998
- NHSLA Risk Management Standards
- NHS Confidentiality Code of Practice 2003
- Information Security Management: NHS Code of Practice
- Information Governance Toolkit
- Fraud Act 2006
- The Data Protection Act
- Data Protection Good Practice – Information Commissioners Office
- Caldicott Guardian Manual 2010
- The Law of Confidentiality
- Limitations Act 1980
- Bribery Act 2010
- Criminal Procedures and Investigations Act 1996
- NHS Digital: Guide to Confidentiality in Health and Social Care
- NHS Care Record Guarantee
- General Data Protection Regulation

CCG Related Policies:

- Conditions of Contract
- Information Security Policy
- Safe Haven Policy
- Portable Data and Smartphone & Tablet Policy
- E-mail Policy
- Freedom of Information Policy
- Data Protection and Access to Health Records policy
- Staff Code of Conduct on confidentiality

Revision History

Date of this revision: March 2018

Revision date	Previous revision date	Summary of Changes
March 2018	October 2016	Updated in line with General Data Protection requirements – reference to new legislation added throughout
October 2016	October 2014	Changes made to reflect new Records Management Code of Practice for Health and Social Care 2016
June 2015	Sept 2014	Updated regarding new relevant legislation and updated regarding references to out of date roles/documents - new sections added
September 2014	Sept 2013	No changes
January 2013	September 2012	Addition of section 10 “Fraud and Misuse of Records”
September 2012	February 2007	Replacement of : • “Chief Executive” with “Accountable Officer” Removed: • References to DMC • References to Departmental Records Leads • All references to obsolete procedures with reference to annual records strategy • References to medical records and related procedures Updated: • Related legislation
February 2007	March 2005	Changes from review of new DoH guidance *Records Management: NHS Code of Practice 2006*
March 2005	N/A	Changes from Information Governance Group review

Contents

1 Introduction....5
2 Scope and Definitions....5
3 Objectives....7
4 Scanned records....7
5 Cloud Based Storage and Digital Records....8
6 The Freedom of Information Act....8
7 Roles and Responsibilities....9
8 Legal and Professional Obligations....10
9 Registration of Record Collections....10
10 Retention and Disposal Schedules....10
11 Compliance....10
12 Training....11
13 Fraud and Misuse of Records....11
14 Review....11
Appendix A....12
Appendix B....16

1 Introduction

1.1 Records Management is the process by which and organisation manages all the aspects of records whether internally or externally generated and in any form of media type, from their creation, all the way through to their lifecycle to their eventual disposal.

1.2 The Records Management Code of Practice for Health and Social Care 2016 has been published by NHS Digital as a guide to the required standards of practice in the management of records for those who work within or under contract to NHS organisations in England. It is based on current legal requirements and professional best practice.

1.3 Our organisation's records are our corporate memory, providing evidence of actions and decisions and representing a vital asset to support our daily functions and operations. They support formation of policy and managerial decision-making, protect the interests of NHS Rotherham CCG and the rights of patients, staff and members of the public who have dealings with the CCG. They support consistency, continuity and efficiency and productivity and help us deliver our services in consistent and equitable ways.

1.4. Rotherham CCG's Governing Body has adopted this Records Management policy and is committed to ongoing improvement of its records management functions as it believes that it will gain a number of organisational benefits from so doing. These include:-

- better use of physical and server space;
- better use of staff time;
- improved control of valuable information resources;
- compliance with legislation and standards;
- reduced costs; and
- management of risk

2 Scope and Definitions

2.1 This policy relates to all operational records held in any format by the CCG. Operational records are defined as information created or received in the course of business, as a result of the work of NHS employees, and captured in a readable form in any medium, providing evidence of the functions, activities and transactions. This includes consultants, agency or casual staff.

Function:

- Administrative records (including personnel, estates, financial and accounting records, contract records, litigation and records associated with complaint-handling)
- Patient health records, including those concerning all specialities, but excluding GP medical records and includes private patients seen on NHS premises
- All registers schedules and diaries that may be kept in relation to the provision of a service to patients
- X-Ray and imaging reports, output and images
- Photographs, slides, and other images
- Microform (i.e. fiche/film)
- Audio and video tapes, cassettes, CD-ROM, USB memory sticks, etc.

- Records in all electronic formats including text, e-mail and scanned images
- Integrated health and social care records
- Data processed for secondary use purposes. Secondary use is any use of person level or aggregate level data that is not for direct care purposes. This can include data for service management, research or for supporting commissioning decisions.

Format:

- Photographs, slides, and other images
- Microform (i.e. microfiche/microfilm)
- Audio and video tapes, cassettes, CD-ROM etc
- E-mails
- Computerised records
- Scanned records (see section below)
- Text messages (SMS) and social media (both outgoing from the NHS and incoming responses from the patient) such as Twitter and Skype
- Websites and intranet sites that provide key information to patients and staff.

NB this list is not exhaustive; Records Management applies to any material that holds information gathered as part of work undertaken in the NHS.

All records created in the course of the business of NHS Rotherham CCG are corporate records and are public records under the terms of the Public Records Acts 1958 and 1967. This includes email messages and other electronic records. Guidance on dealing with different types of records is available within the Records Management Code of Practice for Health and Social Care 2016.

2.2 ***Records Management*** is a discipline which utilises an administrative system to direct and control the creation, version control, distribution, filing, retention, storage and disposal of records, in a way that is administratively and legally sound, whilst at the same time serving the operational needs of the CCG and preserving an appropriate historical record. The key components of records management are:

- record creation
- record keeping
- record maintenance including tracking of record movements
- access and disclosure
- closure and transfer appraisal
- archiving
- disposal

2.3 The term ***Records Life Cycle*** describes the life of a record from its creation/receipt through a period of its 'active' use, then into a period of 'inactive' retention (such as closed files which may still be referred to occasionally) and finally either confidential disposal or archival preservation.

2.4 In this policy, ***Records*** are defined as 'recorded information, in any form, created or received and maintained by the CCG in the transaction of its business or conduct of affairs and kept as evidence of such activity'

2.5 ***Information*** is a corporate asset. The CCG's records are important sources of administrative, evidential and historical information. They are vital to the CCG to support its current and future operations (including meeting the requirements of the Freedom of Information legislation), for the purpose of accountability, and for awareness and understanding of its history and procedures.

3 Objectives

3.1 The aims of our Records Management policy is to ensure that:

- **Records are available when needed –**adequate records are maintained to account fully and transparently for all actions and decisions in particular:
  - To protect legal and other rights of staff or those affected by those actions
  - To facilitate audit or examination
  - To provide credible and authoritative evidence;

- **Records can be interpreted** records are complete and accurate and the information they contain is reliable and their authenticity can be guaranteed. A record should be able to be interpreted so that it is possible to establish its context, who created it, as part of which business process and how it is related to other records;

- **Records can be accessed** – records and the information within them can be efficiently retrieved when needed and displayed in a way consistent with their initial use, and that the current version is identified where multiple versions exist;

- **Records are secure -** from unauthorised or inadvertent alteration or erasure, that access and disclosure will be properly controlled and audit trails will track all use and changes. Records will be held in a robust format which remains readable for as long as records are required;

- **Records are retained and disposed of appropriately** – using consistent and documented retention and disposal procedures to ensure the retention of the minimum volume of records consistent with effective and efficient operation and to include provision for permanent preservation of archival records;

- **Staff are trained** – so that all staff are made aware of their record-keeping responsibilities through generic and specific training programmes and guidance. Staff induction programmes should include records management training relative to the role. Staff transferring between departments will require additional training.

- **Records can be maintained through time** – the qualities of availability, accessibility, interpretation and trustworthiness can be maintained for as long as the record is needed, perhaps permanently, despite changes of format;

4 Scanned records

4.1 Where records have been scanned they must be able to perfom the same function as the original paper copy did. Scanned records can be challenged in a court so the CCG must be able to demonstrate that scanned records are authentic and that there are procedures in place to maintain the integrity, authenticity and usability of the records for the duration of the retention period where it is likely that this will be required.

4.2 The standard, 'BS 10008 Electronic Information Management - Ensuring the authenticity and integrity of electronic information', specifies the method of ensuring that electronic information remains authentic. For large scale scanning, or where it is likely that the authenticity of scanned records will need to be proven, the CCG will use a supplier or service that meets the BS 1000 standard.

4.3 For small scale scanning requirements or those records where there is a low risk of being required to prove their authenticity, staff may undertake the scanning internally.

4.4 Once scanned records have been digitised and the appropriate quality checks completed, it is possible to destroy the paper original.

5 Cloud Based Storage and Digital Records

5.1 Cloud based storage

5.1.1 Before cloud based storage solutions are implemented staff must refer to the guidance published by the Information Commissioners Office. A privacy impact assessment should be undertaken before any decision is made.

5.1.2 The NHS prohibits any patient identifiable information being stored outside of England where there is a link to a national system such as HSCN or NHSMail. Any cloud based storage solutions which will be used to store patient data must have servers based in England.

5.2 Digital Records

5.2.1 Digital records must remain authentic and reliable, retaining their integrity, accessibility and usability over time despite advances in digital technology including software upgrades which can leave other applications unusable.

5.2.2 There are several strategies that can be adopted to ensure that digital information can be kept in an accessible form over time. Among the most common strategies adopted are:

- Emulation (using software to simulate the original application)
- Preservation of host system
- Conversion to a standard file format (or a limited number of formats)
- Migration to new system (retaining existing formats)

6 The Freedom of Information Act

6.1 The Freedom of Information Act allows individuals to request information held by a public authority. Freedom of Information legislation gives the right of access to corporate information held by the NHS and its partners. It gives the public:-

- The right to be told whether the information exists and;
- The right to receive the information.

6.2 It sets out exemptions from that right and places a number of obligations on public authorities. The Act is enforced by the Information Commissioner.

6.3 Section 46 of the Freedom of Information Act is the principal legislation governing the management of records. It directs organisations covered by the Freedom of Information Act to have records management systems which will help them to perform their statutory function.

6.4 The CCG has a Freedom of Information and Environmental Information Policy which all staff are expected to familiarise themselves and comply with. This is available on the intranet.

7 Roles and Responsibilities

7.1 Accountable Officer

The Chief Officer is the Accountable Officer of the CCG and has overall responsibility for records management in the CCG. He is responsible for the management of the organisation and for ensuring appropriate mechanisms are in place to support service delivery and continuity. Records management is key to this as it will ensure appropriate, accurate information is available as required.

The CCG has a particular responsibility for ensuring that it corporately meets its legal responsibilities, and for the adoption of internal and external governance requirements.

7.2 Senior Information Risk Owner

The Deputy Chief Officer is the Senior Information Risk Owner (SIRO) and has organisational responsibility for all aspects of risks associated with Records Management, including those relating to confidentiality and data protection.

7.3 Information Governance Lead

The Head of Health Informatics is the Information Governance Lead in the CCG and is responsible for co-ordinating records management in the organisation, identifying and organising training, and providing guidance and advice on the management and retention of all records.

7.4 Caldicott Guardian

The Chief Nurse is the Caldicott Guardian for the CCG and is responsible for ensuring that national and local guidelines and protocols for handling and management of confidential personal information are in place and is a source of information for the CCG.

7.5 **Heads of Departments** are responsible for identifying key corporate records, ensuring that appropriate and adequate records are made and the policy is implemented in their individual departments.

7.6 **Individuals -** all CCG staff, whether clinical or administrative, who create, receive and use records have records management responsibilities. In particular all staff must ensure that they keep appropriate records of their work in the CCG and manage those records in keeping with this policy and with any guidance subsequently produced.

8 Legal and Professional Obligations

8.1 All NHS records are Public Records under the Public Records Acts. The CCG will take actions as necessary to comply with the legal and professional obligations set out in the Records Management Code of Practice for Health and Social Care 2016, in particular:

- Public Records Acts 1958
- Data Protection Act 2018
- General Data Protection Regulation
- Freedom of Information Act 2000
- The Common Law Duty of Confidentiality; and
- The NHS Confidentiality Code of Practice

and any new legislation affecting records management as it arises.

9 Registration of Record Collections

The CCG will establish and maintain mechanisms through which departments and other units can register the records they are maintaining. The inventory of record collections will facilitate:

- the classification of records into series; and
- the recording of the responsibility of individuals creating records

10 Retention and Disposal Schedules

10.1 It is a fundamental requirement that all of the CCG's records are retained for a minimum period of time for legal, operational, research and safety reasons. The length of time for retaining records will depend on the type of record and its importance to the CCG's business functions.

10.2 At the end of the minimum retention period, records will be reviewed in conjunction with the Head of Health Informatics to determine whether they should be destroyed, retained for a longer period of time (for situations such as public enquiries) or transferred to a permanent place of deposit appointed under the Public Records Act 1958.

10.3 The CCG has adopted the retention periods set out in appendix 3 of the Records Management Code of Practice for Health and Social Care 2016

11 Compliance

11.1 Rotherham CCG will follow this policy within all relevant procedures and guidance used for operational activities. Compliance with the policy will be monitored by annual records management reviews by Heads of Department. Planned inspections by internal auditors to assess how the policy is being put into practice will also take place periodically. These reviews/inspections will seek to:

- identify areas of good practice which can be used throughout the CCG
- highlight where non-conformance to the procedures is occurring

- if appropriate, recommend a tightening of controls and make recommendations as to how compliance can be achieved

11.2 In addition to this, progress will be reflected in the annually submitted Data Security and Protection toolkit and Care Quality Commission review.

12 Training

All CCG staff will be made aware of their responsibilities for record-keeping and record management through generic and specific training programmes and guidance (including induction training and annual refresher training).

13 Fraud and Misuse of Records

Any records or information contained therein that is used, passed on misappropriated for criminal purposes by any person whether connected to NHS Rotherham or not should be reported to the Local Counter Fraud Specialist in accordance with the Fraud Policy & Response Plan or direct to the NHS Fraud & Corruption Reporting Line on 0800 0284060.

14 Review

This policy will be reviewed every two years (or sooner if new legislation, codes of practice or national standards are introduced).

Appendix A

Retention schedule for commonly used records in the CCG – please note that this is not an exhaustive list. Please refer to the Retention Schedule in Records Management Code of Practice for Health and Social Care 2016 for further information.

Record Type	Retention Start	Retention Period	Action at end of retention period
Event and Transaction Records			
Datasets released by HSCIC under a data sharing agreement	Date specified in the data sharing agreement	Delete with immediate effect	Delete according to HSCIC instruction
Corporate Governance Records			
Board Meetings	Creation	Before 20 years but as soon as practically possible	Transfer to a Place of Deposit
Board Meetings (Closed Boards)	Creation	May retain for 20 years	Transfer to a Place of Deposit
Chief Executive records	Creation	May retain for 20 years	Transfer to a Place of Deposit
Committees Listed in the Scheme of Delegation or that report into the Board and major projects	Creation	Before 20 years but as soon as practically possible	Transfer to a Place of Deposit
Committees/ Groups / Sub-committees not listed in the scheme of delegation	Creation	6 years	Review and if no longer needed destroy
Incidents (serious)	Date of incident	20 Years	Review and consider transfer to a Place of Deposit
Incidents (not serious)	Date of incident	10 Years	Review and if no longer needed destroy
Non-Clinical Quality Assurance Records	End of year to which the assurance relates	12 years	Review and if no longer needed destroy
Policies, strategies and operating procedures including business plans	Creation	Life of organisation plus 6 years	Review and consider transfer to a Place of

			Deposit
Record Type	**Retention Start**	**Retention Period**	**Action at end of Retention Period**
Communications			
Intranet site	Creation	6 years	Review and consider transfer to a Place of Deposit
Press releases and important internal communications	Release Date	6 years	Review and consider transfer to a Place of Deposit
Public consultations	End of consultation	5 years	Review and consider transfer to a Place of Deposit
Website	Creation	6 years	Review and consider transfer to a Place of Deposit
Staff Records & Occupational Health **Although pension information is routinely retained until 100th birthday by the NHS Pensions Agency employers must retain a portion of the staff record until the 75th birthday.**			
Occupational Health Reports	Staff member leaves	Keep until 75th birthday or 6 years after the staff member leaves whichever is sooner	Review and if no longer needed destroy
Occupational Health Report of Staff member under health surveillance	Staff member leaves	Keep until 75th birthday	Review and if no longer needed destroy
Staff Record **This includes (but is not limited to) evidence of right to work, security checks and recruitment documentation for the successful candidate including job adverts and application forms.**	Staff member leaves	Keep until 75th birthday May be destroyed 6 years after the staff member leaves or the 75th birthday, whichever is sooner, if a summary has been made.	Create Staff Record Summary then review or destroy the main file

Type of Record	**Rention Start**	**Retention Period**	**Action at end of Retention Period**
Staff Record Summary	Creation	2 years	Review and if no longer needed destroy
Staff Training records	Creation	Records of significant training must be kept until 75th birthday or 6 years after the staff member leaves.	Review and consider transfer to a Place of Deposit
Procurement			
Contracts sealed or unsealed	End of contract	6 years	Review and if no longer needed destroy
Contracts - financial approval files	End of contract	15 years	Review and if no longer needed destroy
Contracts - financial approved suppliers documentation	When supplier finishes work	11 years	Review and if no longer needed destroy
Tenders (successful)	End of contract	6 years	Review and if no longer needed destroy
Tenders (unsuccessful)	Award of tender	6 years	Review and if no longer needed destroy
Finance			
Accounts **Includes all associated documentation and records for the purpose of audit as agreed by auditors**	Close of financial year	3 years	Review and if no longer needed destroy
Benefactions **These may already be in the financial accounts and may be captured in other records/reports or committee papers. For benefactions, endowment, trust fund/legacies, offer to a Place of Deposit**	End of financial year	8 years	Review and consider transfer to Place of Deposit
Expenses	Close of financial year	6 years	Review and if no longer

			needed destroy
Type of Record	**Retention Start**	**Retention Period**	**Action at end of Retention Period**
Final annual accounts report	Creation	Before 20 years	Transfer to place of deposit if not transferred with the board papers
Financial records of transactions	End of financial year	6 Years	Review and if no longer needed destroy
Salaries paid to staff	Close of financial year	10 Years	Review and if no longer needed destroy
Superannuation records	Close of financial year	10 Years	Review and if no longer needed destroy
Legal, Complaints & Information Rights			
Complaints case file	Closure of incident	10 years	Review and if no longer needed destroy
Fraud case files	Case closure	6 years	Review and if no longer needed destroy
Freedom of Information (FOI) requests and responses and any associated correspondence	Closure of FOI request	3 years	Review and if no longer needed destroy
FOI requests where there has been a subsequent appeal	Closure of appeal	6 years	Review and if no longer needed destroy
Software licences	End of lifetime of software	Lifetime of software	Review and if no longer needed destroy
Subject Access Request (SAR) and disclosure correspondence	Closure of SAR	3 Years	Review and if no longer needed destroy
Subject Access Request where there has been a subsequent appeal	Closure of appeal	6 Years	Review and if no longer needed destroy

Appendix B

NHS
Rotherham
Clinical Commissioning Group

Equality Impact Assessment form 2013

Title of policy or service	Records Management Policy	
Name and role of officers completing the assessment	Andrew Clayton – Head of Health Informatics	
2 Date assessment started/completed	12.03.18	

1. Outline	
Give a brief summary of your policy or service • Aims • Objectives • Links to other policies, including partners, national or regional	The aims of the Records Management policy is to ensure that the organisation is compliant with the relevant FOI and Data Protection legislation in respect of records management and that: Records are available when needed Records can be interpreted Records can be accessed Records are secure Records are retained and disposed of appropriately Staff are trained Records can be maintained through time

2. Gathering of Information

This is the core of the analysis; what information do you have that indicates the policy or service might *impact on protected groups, with consideration of the General Equality Duty*.

	What key impact have you identified?			What actions do you need to take to address these issues?	What difference will this make?
	Positive Impact	**Neutral impact**	**Negative impact**		
Human rights		✓			
Age		✓			
Carers		✓			
Disability		✓			
Sex		✓			
Race		✓			
Religion or belief		✓			
Sexual orientation		✓			
Gender reassignment		✓			
Pregnancy and maternity		✓			
Marriage and civil partnership (only eliminating discrimination)		✓			
Other relevant group		✓			

Please provide details on the actions you need to take below.

3. Action plan				
Issues identified	**Actions required**	**How will you measure impact/progress**	**Timescale**	**Officer responsible**

4. Monitoring, Review and Publication			
When will the proposal be reviewed and by whom?	**March 2020 – IG Group**		
Lead Officer	**Andrew Clayton**	**Review date:**	**March 2020**

Once complete please forward to your Equality lead Elaine Barnes via email elaine.barnes3@nhs.net