

HEALTHWATCH CITY OF LONDON INFORMATION SHARING PROTOCOL

1. INTRODUCTION

1.1 This Protocol provides a framework for the secure, confidential and lawful sharing of information between the Parties and Healthwatch City of London (HWCofL).

1.2 This information sharing will make an important contribution to the Healthwatch City of London role of collating and building a body of evidence in support of recommendations made by Healthwatch City of London - to health and social care providers and commissioners, Healthwatch England and the Care Quality Commission - to influence improvement in health and social care services to the people of the City of London.

1.3 This Protocol covers the sharing of information with the individual Parties and members of the public in relation to the statutory activities of Healthwatch City of London, in carrying out its independent consumer champion role for health and social care in the City of London.

1.4 Healthwatch City of London will consider, and where appropriate, participate in other Information Sharing Protocols such as the *City of London Council Inter Agency General Sharing Information Sharing Protocols (August 2013)* and *Healthwatch England Information Sharing Agreement* with Local Healthwatch organisations.

1.5 This Protocol:-

- **Outlines for the people of the City of London** the reasons why information about them may need to be shared and how Healthwatch City of London will control this;
- **Identifies the Parties** to this agreement;
- **Sets out the principles** that underpin the exchange of information;
- **Defines the purposes** for which the parties agree to share information;
- **Sets out the policies and procedures** that support the sharing of information, to ensure that such sharing is in line with legal, statutory and common law responsibilities.

1.6 The Party sharing the information under the Protocol will be responsible for the integrity of any information that they make available.

2. THE PURPOSE(S) FOR THE SHARING OF INFORMATION BETWEEN THE PARTIES

2.1 A key role of local Healthwatch organisations is to promote the local consumer voice to ensure that the views of patients, service users and the public feed into improving local health and social care services. Our primary task is to gather evidence from the views and experiences of patients, service users and the public about their local health and care services and to provide feedback based on that evidence.

- 2.2 This Protocol supports this task and our *network of networks* role to work with the statutory, and voluntary and community sector organisations in gathering this feedback and use the weight of our statutory powers in making the consumer voice heard, and getting a response.
- 2.3 We will take this information and report the evidence to those in charge of arranging and funding services and making decisions – and those providing services – about the quality of care, including through statutory representation on the local Health and Well Being Board. This should help ensure that those who make decisions about health and social care services can be aware of and act and respond quickly to concerns. We will also feed this evidence into Healthwatch England to support any national policy changes they find are needed to improve health and social care services.
- 2.4 The Parties to this Protocol agree to lawfully and appropriately share information to add weight and value to the Healthwatch City of London execution of its statutory duties for the benefit of the City of London people. These duties include:
- Gathering the views and experiences of patients, service users and the public and making these views known;
 - Making reports and recommendations about the improvement of services;
 - Promoting and supporting the involvement of people in the commissioning, provision and scrutiny of local services;
 - Recommending investigation and special review of services;
 - Signposting and information to enable people to make informed choices;
 - Making the views and experiences of people known to Healthwatch England and other bodies.
- 2.5 The sharing of information shall also allow Healthwatch City of London to identify how and where best to add value to the local health and care user, patient and public engagement activity, so that we can:
- Optimise community engagement resources in the City of London;
 - Avoid repetition of information collection;
 - Identify gaps in engagement, projects, and scrutiny of health and social care services;
 - Give weight to local health and social care research and statistical analyses;
 - Give credibility and confidence to the body or evidence upon which our recommendations are based;
 - Demonstrate the breadth, range and integrity of our data sources should this be scrutinised or challenged by providers and/or commissioners of services or other bodies.
- 2.6 If, as a result of legislation or policy changes or other developments, additional information sharing requirements arise, these will be included within this Protocol.

3. SAFEGUARDING

3.1 Where Healthwatch City of London receives information or allegations regarding abuse (including, neglect, physical abuse, emotional abuse, sexual abuse, or institutional abuse) or other information which suggest that the welfare of vulnerable people may be at significant risk, we shall report these directly, in accordance with local safeguarding procedures.

3.2 Where Parties to the Protocol become aware of such information, they should proceed in accordance with their respective safeguarding procedures.

4. LEGAL REQUIREMENTS

4.1 Partner organisations must comply with all relevant legal requirements relating to the processing of information, particularly personal data.

4.2 The principal legislation is listed below and further explained in:

- Data Protection Act 1998 (DPA);
- Human Rights Act 1998 (article 8);
- Freedom of Information Act 2000;
- Computer Misuse Act 1990;
- Health and Social Care Act 2008;
- Health and Social Care Act 2012

4.3 Other legislation may be relevant when sharing specific information.

4.4 Partner organisations must also comply with the common law duty of confidentiality, and their respective Data Protection and Confidentiality Policies.

4.5 Healthwatch City of London's *Data Protection and Confidentiality Policy* sets out the practice that we will follow in order to ensure compliance with these legal responsibilities in relation to confidential personal information.

4.6 In accordance with the DPA, for the purposes of this protocol:

- Healthwatch City of London is the appointed Data Controller;
- Provider Parties are the appointed Data Processors

All data and information will be processed in accordance with these statutory roles and responsibilities.

4.7 Information which is already in the PUBLIC DOMAIN will be freely shared between the parties.

5. RESPONSIBILITIES

- 5.1 Each Party is responsible for ensuring that their organisational, technological and security measures meet the requirements of this Protocol.
- 5.2 Each Party is responsible for ensuring that the requirements of this agreement are appropriately and adequately communicated to their staff, and to other agents acting on their behalf, and for ensuring compliance with this Protocol.
- 5.3 Each Party remains responsible for ensuring their own compliance with applicable legislation and common law. If they consider that any part of this Protocol is incompatible with that requirement, then compliance with the law takes precedence, in such circumstances, they must notify all parties as soon as possible.

Personal data (including sensitive personal data)

- 5.4 Personal data must only be shared between the parties where:
- There is a lawful basis to do so (consent is one lawful basis);
 - The Parties receiving the personal data has a genuine and legitimate 'need to know' (i.e. they have a legitimate purpose for receiving the information); and
 - The disclosure is considered proportionate, with consideration of the potential impact upon the privacy of individuals.
- 5.5 Where ever possible, consideration should be given as to whether it is necessary or appropriate to share or use personal data. Where non-personal, anonymised or pseudonymised data can be practicably used to achieve the same purpose, then personal data must not be shared or used.
- 5.6 Each Party organisation must ensure that any of its employees or agents accessing personal data are fully aware of their responsibilities to maintain the security and confidentiality of personal data.
- 5.7 Each Party organisation must take reasonable steps to ensure that any of its staff accessing personal data (that has been shared under this Information Sharing Protocol) follow the procedures and standards that have been agreed and incorporated within it.
- 5.8 Personal data must not be transferred to a country or territory outside the EEA without an adequate level of protection for the rights and freedoms of the data subject in relation to the processing of personal data. Information obtained under this Protocol must not be transferred to a country or territory outside of the EEA without the explicit consent of the data subject (the person to whom the information relates) and/or the permission of the information provider.

5.9 Party organisations should not assume that **non-personal** information is not sensitive or confidential and can be freely shared. This may not be the case and, where there is any doubt as to whether such information is sensitive or confidential, the information Provider should be contacted before any further sharing takes place.

5.10 In most cases, it is anticipated that the purpose of the Protocol shall be met by sharing information that is not personal data (i.e. from which individuals cannot be identified) unless those individuals have given their consent to the sharing or, in extraordinary circumstances, where the disclosure is lawful without consent and in the very clear public interest (for example, where necessary to protect any person from serious harm).

6. ANONYMISED DATA

6.1 For the purposes of this section, reference to anonymisation also apply to pseudonymisation (where personal identifiers have been removed, but the provider organisation is still able to identify the data subject, for example by use of a unique identifier number).

6.2 In order to protect privacy, reduce the risks relating to DPA compliance and to minimise the risk of security breaches, data being used by and shared between the Parties should be anonymised wherever there is not a legitimate reason and legal basis for using or sharing personal data.

6.3 Anonymised data about an individual can be shared without consent in a form where the identity of the individual cannot be recognised i.e. when:

- Reference to any data item that could lead to an individual being identified has been removed; **and**
- The data cannot be combined with any data sources held by any likely recipient in order to produce personal identifiable data (i.e. where nobody who is likely to receive the data could reasonably identify individuals from that data, on its own or when combined with other information available to them or likely to become available to them).

6.4 Healthwatch City of London will be responsible for ensuring that any anonymisation of personal data is adequate in accordance with the Information Commissioner's Anonymisation Code of Practice. The Code of Practice can be found at http://www.ico.org.uk/for_organisations/data_protection/topic_guides/~media/documents/library/Data_Protection/Practical_application/anonymisation_code.ashx

6.5 Where Healthwatch City of London intends to publish or further disclose Anonymised health or social care information, it is our responsibility to ensure that it

is anonymised in accordance with Information Standard ISB 1523 – Anonymisation Standard for Publishing Health and Social Care Data. See <http://www.isb.nhs.uk/documents/isb-1523/amd-20-2010/1523202010spec.pdf>

6.5 Healthwatch City of London shall not attempt to identify individuals from anonymised information, or to combine anonymised information with other information in such a way as to make it reasonably possible to identify individuals, without the written consent of the Information Provider.

7. PROHIBITION ON FURTHER USE

7.1 Healthwatch City of London shall ensure the information provided by the Party organisations is used exclusively for the specified purposes set out in this agreement and shall not further use the information in any manner incompatible with that purpose or purposes without the prior written consent of the Party organisation or as provided by law.

8. SECURITY ARRANGEMENTS

8.1 The Parties shall agree to maintain appropriate security policies and procedures in place relating to the secure transfer, receipt, access to, storage and disposal of shared information; which shall be subject to regular monitoring and review.

Methods for Sharing Information

8.2 This shall be in writing through secure electronic or hard copy means and marked as 'classified'. Healthwatch City of London shall acknowledge receipt.

9. PROTOCOL REVIEW

10.1 The Parties shall review this Protocol annually or more frequently where necessary by prior agreement of the Parties.