



Information Sharing and Mental Health – guidance issued by the Department of Health

The Department of Health has issued new guidance entitled "Information Sharing and Mental Health", in order to support information sharing by Mental Health Services.

What is the purpose of the guidance?

The Department of Health has recognised that mental health professionals are often reluctant to share health information that is held about an individual because of fear or uncertainty about the law or the lack of suitable arrangements in place to do so. However, information sharing between organisations and professionals is essential to ensure that people get the services they need. The Department of Health has therefore issued this guidance in order to set out when, why and with whom health information can be shared. The guidance is not intended to be a comprehensive statement about the current law, but rather **"an accessible guide to an area that many find challenging."** [1]

Who is the guidance aimed at?

The guidance is intended not just for those people working in mental health care but also for those who are interested in or connected with these services. For example, it may be of relevance to statutory authorities (such as housing authorities), the police, probation staff and even those affected by the actions of someone with a serious mental health problem.

What does the guidance say?

The guidance begins by stressing the importance of information sharing but balances this against the need for information to be shared in a safe and secure way. It lists "guiding principles" on information sharing, which are as follows

- **Sharing information about an individual is entirely lawful if specific informed consent is sought and given.**
- **Even when such consent is not given, when protection of the individual and/or wider society is at stake, the sharing of information may be lawful and, sometimes, essential.**
- **Unnecessary disclosure of personal information is wrong, on a number of counts.**
- **Agreed protocols with other public bodies are important for clarifying mutual expectations and responsibilities.** [2]

The guidance draws upon information issued by other healthcare bodies, such as the National Information Governance Board, the British Medical Association and the Royal College of Psychiatrists. It publishes relevant extracts from guidance issued by these bodies on balancing disclosure of health information with confidentiality.

The guidance goes on to consider which types of organisation or people may need access to health information that is held about an individual, such as carers, the voluntary sector, statutory agencies and "victims" (i.e. those affected by the actions of someone with a mental health problem).

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It describes why these people or organisations may need the information, the advantages of sharing information with them and what level or kind of information they are allowed access to. It outlines further guidance or schemes that currently exist in order to assist with proper and safe information sharing, such as The Code of Practice to the Mental Health Act (issued by the Department of Health), the Criminal Justice Liaison Schemes and Multi-Agency Public Protection Arrangements.

The guidance also refers to the vast amount of existing legislation and guidance that has the aim of protecting people from improper sharing of information about them. It looks briefly at the main implications that each piece of legislation or guidance has on information sharing. It considers, for example, the Data Protection Act 1998, the Human Rights Act 1998, the NHS Code of Practice on confidentiality and other professional guidelines. It explains how information can still be shared in a way that is compatible with the legislation and guidance.

Further Information

If you would like further information on the contents of this briefing please contact

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Footnotes

1. "Information Sharing and Mental Health – Guidance to Support Information Sharing by Mental Health Services", Department of Health best practice guidance (August 2009), page 15
2. As above, page 4
3. As above, page 14

Lastly, the guidance recognises that the exchange of information may not just be a "one-off" incident. It acknowledges that there are circumstances where the regular exchange of information may need to take place between different agencies. In such circumstances, the guidance emphasises the need for a formal agreement to be made between the agencies, to ensure that **"everyone understands what information will be exchanged, for what purpose and to whom"**.^[3] The second Appendix to the guidance sets out what information and detail should be included in such an agreement.

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CQC Requirements Published

The requirements under which Health and Social Care providers must operate under the new Registration system have now been published by the Department of Health. The requirements set out the levels of safety and quality of care expected of providers although it provides some flexibility on how to do this. Subject to approval by Parliament, the draft Regulations will be introduced for NHS Healthcare providers in April 2010 and for Private and Voluntary Healthcare and Adult Social Care providers from October 2010. The system will be extended to Primary Dental Care, Private Ambulances and Private Medical Care in the years thereafter.

CQC will be developing guidance on how it will judge compliance with the Regulations which (for the private sector) replace the National Minimum Standard and Regulations. The draft Regulations are available at www.opsi.gov.uk/stat-draft

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