

Other Relevant Acts of Parliament

1 Human Rights Act 2000

This Act became law on 2 October 2000. It binds public authorities including Health Authorities, Trusts, Primary Care Groups and individual doctors treating NHS service users to respect and protect an individual's human rights. This will include an individual's right to privacy (under Article 8) and a service user's right to expect confidentiality of their information at all times.

Article 8 of the Act provides that 'everyone has the right to respect for his private and family life, his home and his correspondence'. However, this article also states 'there shall be no interference by a public authority with the exercise of this right except as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, or the economic well-being of the country, for the prevention or disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others'.

Each organisation must act in a way consistent with these requirements. It must take individuals rights into account when sharing personal information about them.

2 Freedom of Information Act 2000

This Act came into being in November 2000 and fully in force in January 2005. The Information Commissioner (previously the Data Protection Commissioner) will oversee the implementation of this Act. This Act gives individuals rights of access to information held by public authorities – this became effective in 2005. Further information will be available as implementation progresses (see www.ico.gov.uk).

3 Regulation of Investigatory Powers Act 2000

This Act combines rules relating to access to protected electronic information as well as revising the 'Interception of Communications Act 1985'. The Act aims to modernise the legal regulation of interception of communications in the light of the Human Rights laws and rapidly changing technology.

4 Crime and Disorder Act 1998

This Act introduces measures to reduce crime and disorder, including the introduction of local crime partnerships around local authority boundaries to formulate and implement strategies for reducing crime and disorder in that local area.

The Act allows disclosure of person identifiable information to the Police, Local Authorities, Probation Service or the Health Service but only if the purposes are defined within the Crime and Disorder Act. The Act does not impose a legal requirement to disclose/exchange person identifiable information and responsibility for disclosure rests with the organisation holding the information. There should be a

Crime and Disorder Protocol governing the disclosure/exchange and use of personal information within a local authority boundary agreed and signed by all involved agencies and organisations.

5 The Computer Misuse Act 1990

This Act makes it a criminal offence to access any part of a computer system, programs and/or data that a user is not entitled to access. Each organisation will issue each user an individual user id and password which will only be known by the individual they relate to and must not be divulged/misused by other staff. This is to protect the employee from the likelihood of their inadvertently contravening this Act.

Each organisation will adhere to the requirements of the Computer Misuse Act 1990 by ensuring staff are made aware of their responsibilities regarding the misuse of computers for personal gain or other fraudulent activities. Any member of staff found to have contravened this Act will be considered to have committed a disciplinary offence and be dealt with accordingly and may be liable to criminal prosecution under the provisions of the Act.

6 The Access to Health Records 1990

This Act gives service user's representatives right of access to their manually held health records, in respect of information recorded on or after 1 November 1991. This Act is only applicable for access to deceased person's records. All other requests for access to information by living individuals are provided under the access provisions of the Data Protection Act 1998.

7 Access to Medical Reports Act 1988

This Act allows those who have had a medical report produced for the purposes of employment and/or insurance to obtain a copy of the content of the report prior to it being disclosed to any potential employer and/or prospective insurance company.

8 Health & Social Care Act 2001: Section 60

Section 60 of the Health and Social Care Act 2001 makes it lawful to disclose and use confidential service user information in specified circumstances where it is not currently practicable to satisfy the common law confidentiality obligations. This is intended primarily as a temporary measure until anonymisation measures or appropriate recording of consent can be put in place. Where the powers provided by this legislation are used to support the processing of confidential service user information there will be additional safeguards and restrictions on the use and disclosure of the information. These may differ from case to case and change over time where the process of annual review, required by the legislation, results in more stringent safeguards being applied.

Health & Social Care Act 2008 - Reporting of infection to Public Health England or local authority and mandatory reporting of healthcare associated infection to Public Health England

- This includes a requirement for NHS Trust Chief Executives to report all cases of MRSA, MSSA and *E. coli* bacteraemias and *Clostridium difficile* infection in patients aged two years or older that are identified in their institution.

Health Protection (Notification) Regulations 2010

- These require attending doctors (registered medical practitioners) to notify the Proper Officer of the local authority of cases of specified infectious disease or of other infectious disease or contamination, which present, or could present, significant harm to human health, to allow prompt investigation and response. The regulations also require diagnostic laboratories testing human samples to notify Public Health England of the identification of specified causative agents of infectious disease

9 Mental Capacity Act 2005

This Act is for people with a learning disability. It helps make sure that people who may lack capacity to make decisions on their own get the support they need to make those decisions. Where they are not able to make their own decision, the Mental Capacity Act says a decision must be made that is in their 'best interests'.

10 Public Records Act 1958

This Act allows public records to be retained by a department for a further period if the Secretary of State for Digital, Culture, Media and Sport gives their approval. It sets up the place of deposit system, by which other archives services around the country can be appointed to preserve and provide access to public records.

The National Archives' duties under this Act includes -

- provide guidance and supervision to public record bodies on the safekeeping and selection of public records
- preserve transferred records
- provide facilities for the public to see and obtain copies of transferred records, unless the records are withheld because an exemption in the Freedom of Information Act applies.
- oversee the place of deposit system on behalf of the Secretary of State for Digital, Culture, Media and Sport
- return records temporarily at the request of the transferring organisation