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|  **Review Sheet** |
| Last Reviewed Last Amended Next Planned Review in 12 months, or10 May 2022 13 Sept ‘21 sooner as required. |
| Business impact | Changes are important, but urgent implementation is not required, incorporate into your existing workflow.**MEDIUM IMPACT** |
| Reason for this review | Scheduled review |
| Were changes made? | Yes |
| Summary: | This policy has been reviewed and reference made to the need to seek advice on retention schedules for Insurance, and Company Financial records to ensure this is appropriate to the business. |
| Relevant legislation: | * Data Protection Act 2018
* The Common Law Duty of Confidentiality
* Public Records Act 1958
* Section 123 and 124 of the Police Act 1997
* The Care Act 2014
* Freedom of Information Act 2000
* The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
* Access to Health Records Act 1990
* General Data Protection Regulation 2016
 |
| Underpinning knowledge - What have we used to ensure that the policy is current: | * Author: Information Governance Alliance, (2016), *Records Management Code of Practice for Health and Social Care 2016*. [Online] Available from: [https://digital.nhs.uk/article/1202/Records-Management-Code-of-Practice-for-Health- and-Social-Care-2016](https://digital.nhs.uk/article/1202/Records-Management-Code-of-Practice-for-Health-and-Social-Care-2016) [Accessed: 14/7/2020]
* Author: Information Commissioners Office, (2017), *Determining what is personal data - Data Protection Act*. [Online] Available from: [https://ico.org.uk/media/for- organisations/documents/1554/determining-what-is-personal-data.pdf](https://ico.org.uk/media/for-organisations/documents/1554/determining-what-is-personal-data.pdf) [Accessed: 14/7/2020]
* Author: Information Commissioners Office, (2011), *The employment practices code*. [Online] Available from: [https://ico.org.uk/media/for- organisations/documents/1064/the\_employment\_practices\_code.pdf](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf) [Accessed: 14/7/2020]
* Author: Disclosure and Barring Service, (2012), *Handling of DBS certificate information*. [Online] Available from: [https://www.gov.uk/government/publications/handling-of-dbs- certificate-information/handling-of-dbs-certificate-information](https://www.gov.uk/government/publications/handling-of-dbs-certificate-information/handling-of-dbs-certificate-information) [Accessed: 14/7/2020]
* Author: The Home office, (2015), *Revised Code of Practice for Disclosure and Barring Service Registered Persons*. [Online] Available from: [https://www.gov.uk/government/uploads/system/uploads/attachment\_data/file/474742/Code](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/474742/Code_of_Practice_for_Disclosure_and_Barring_Service_Nov_15.pdf) [Accessed: 14/7/2020]
* Author: CIPD, (2018), *Retention of HR records*. [Online] Available from: <https://www.cipd.co.uk/knowledge/fundamentals/people/hr/keeping-records-factsheet> [Accessed: 14/7/2020]
* Author: HMRC, (2013), *A general guide to keeping records for your tax return*. [Online] Available from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\_d](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/377656/rk-bk1.pdf)

[-bk1.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/377656/rk-bk1.pdf) [Accessed: 14/7/2020] |

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| Suggested action: | * Encourage sharing the policy through the use of the QCS App
* Share ‘Key Facts’ with all staff
* Ensure relevant staff are aware of the content of the whole policy
 |
| Equality impact Assessment: | QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law. |

**1. Purpose**

* 1. To ensure compliance with statutory and insurer requirements for information archiving.
	2. To comply with statutory requirements for confidentiality.
	3. Holbeach & East Elloe Hospital Trust (HEEHT) employees must read this policy alongside the GDPR policies and procedures
	4. To support HEEHT in meeting the following Key Lines of Enquiry:

# Key Question Key Lines of Enquiry

|  |  |
| --- | --- |
| SAFE | S1: How do systems, processes and practices keep people safe and safeguarded from abuse? |
| WELL-LED | W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed? |

* 1. To meet the legal requirements of the regulated activities that HEEHT is registered to provide:
		+ Data Protection Act 2018
		+ The Common Law Duty of Confidentiality
		+ Public Records Act 1958
		+ Section 123 and 124 of the Police Act 1997
		+ The Care Act 2014
		+ Freedom of Information Act 2000
		+ The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014
		+ Access to Health Records Act 1990
		+ General Data Protection Regulation 2016

**2. Scope**

* 1. The following roles may be affected by this policy:
		+ Registered Manager
		+ Deputy Manager
		+ Registered Nurses
		+ Administrative and Finance personnel
		+ Care staff
	2. The following Service Users may be affected by this policy:
		+ Service Users
	3. The following stakeholders may be affected by this policy:
		+ Family
		+ Advocates
		+ Representatives
		+ Commissioners
		+ External health professionals
		+ Local Authority
		+ NHS

**3. Objectives**

* 1. To ensure that Holbeach & East Elloe Hospital Trust (HEEHT) stores, archives and disposes of records in line with General Data Protection Regulation, the [Records Management Code of Practice for Health and Social Care 2016](https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/records-management-code-of-practice-for-health-and-social-care-2016) and the [ICO Employment Practices Codes of Practice.](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf)
	2. To ensure that all staff understand their duty in relation to the storage of personal information and the importance of keeping it in accordance with regulation, best practice and insurance requirements.

**4. Policy**

* 1. HEEHT is committed to the ongoing improvement of its records management systems 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
	2. Records will be archived and stored in a manner which complies with statutes, regulations and insurance requirements. They will be held in a secure and safe manner and will be easily retrievable.
	3. Records, documents and other media will be disposed of in a way that protects confidentiality.
	4. Only those authorised to do so will be able to store and retrieve records in accordance with the procedure attached to this policy.
	5. All staff will be made aware of their responsibilities in relation to storage, archiving and document management at the point of induction. Thereafter, they will be reminded of protocol as and when necessary.
	6. Any security breach in relation to the archiving, disposal and storing of records will be thoroughly investigated and reported in line with the GDPR Data Security and Data Retention Policy and Procedure and the GDPR Breach Notification Policy and Procedure at HEEHT.

**5. Procedure**

* 1. The Management team and Office Administrator are responsible for all activity relating to document management. Administrative staff and care home staff are responsible for adhering to the correct archiving and disposal procedures as set out in this policy under the direction of the Manager.

# Archiving

* + - Records will be archived throughout the year as they become inactive, and reviewed on an annual basis
		- For all health records (except those relating to children) the archive year is the calendar year in which the last entry was made. For example, a record with the last entry during April 2009 with a 7-year retention period will be due for review in April 2016. For Children, the retention period is calculated from the date they were born and therefore must be archived by that year. For example, if the retention period states that records will be held until the child is 25 and they were born in 2000, the record will be archived in 2025
		- For financial and some administrative records, it is more appropriate to archive by financial year (FY)

i.e. 1st April to 31st March. Boxes of such records will be marked with the financial year (e.g. FY 2006- 7)

* + - For health and safety reasons no box must weigh more than 16kg
		- Administrative staff under the direction of the Manager will keep a detailed log of the information that has been archived, including identifying retention periods. When records stored have met their retention period, administrative staff must review the information that has met the retention period. If it is deemed that it is no longer required and can be destroyed, administrative staff will place the record in a secure locked bin ready for collection by our authorised disposal contractor. We will keep a record of which records were destroyed, the date and who destroyed the records.

# Storage of Records

* + - All records containing personal identifiable information and other confidential paper records must be stored in a safe and secure location, in a locked cupboard or filing cabinet in a room which is kept locked at all times when not in use
		- Conditions will be appropriate for the storage of records i.e. protected against fire, flood and theft, with filing and lighting systems compliant with health and safety requirements. The records must be kept in a clean and tidy condition
		- Movement of paper records into and out of formal filing storage must be tracked and clearly detailed on local inventories held by HEEHT on each occasion that the file is moved. This will include the access and return dates, the name of the person removing the record, signature and the reason for removal.

# Retention Schedules

Employment, administration and Service User records will be retained in line with the [Records Management](https://digital.nhs.uk/binaries/content/assets/legacy/excel/o/o/rmcop-retention-schedules.xls) [Code of Practice for Health and Social Care 2016 and the associated retention schedule](https://digital.nhs.uk/binaries/content/assets/legacy/excel/o/o/rmcop-retention-schedules.xls) and the [ICO Employment Practices Code of Practice](https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf). HEEHT will ensure that, where there are deviations from this schedule because of local, contractual or insurance requirements, the Data Subject is made aware of how their data will be processed and fair processing notices will be issued in line with GDPR requirements. Records in relation to financial administration, insurance, tax and payroll will be stored in line with HM Revenue and Customs (HMRC) Requirements and the Companies Act. HEEHT will seek advice on retention schedules to reflect the requirements of the business.

# Paper Records Archiving

* + - Only records with the same archiving review year will be stored in the same box. The archiving date is calculated from the date of the last entry in the record. Administrative records from different years but with the same review date may, therefore, be stored together
		- Files will be ‘weeded’ or “culled” before archiving. This means removing documents which are not required to be retained. Papers will be removed from lever arch files, box-files, binders, spring clips etc. and placed in plain or archive envelopes, clearly marked with details of the contents. Where practicable, plastic pockets will also be removed.
		- Service User care records will be fastened together as a single record.

# Retention End Dates

* + - All documents archived will be checked for retention end dates by an authorised individual, and destroyed in a secure and confidential manner
		- If any record is retained beyond the minimum retention period designated in the Retention Schedule, the reason for retention must be documented, including a date for review of this decision. On review, the retention decision must either be re-applied with a further review date set, or the record destroyed as appropriate
		- Records stored on the premises of HEEHT must be reviewed at least annually (usually in January or April) to identify those records whose retention period has expired. Administrative staff with responsibility for the Archives will authorise disposal.

# Disposal of Documents

* + - Any document which may identify or allow the identification of any person and/or contains personal information must be cross-shredded before disposal. Currently HEEHT utilizes a third-party to dispose of paper data records.
		- Destruction logs will be retained to provide legal proof of destruction, in case the records are subsequently requested for disclosure, litigation purposes or under Freedom of Information or Data Protection legislation
		- The following will be recorded:
			* A list of the records destroyed
			* When this took place
			* The name of the person who authorised the destruction
			* Who carried out the process and
			* The reason for the destruction

# Electronic Records Storage

* + - All electronic files will be reviewed at least every year. This will identify if records need to be retained.
		- Computers storing records with personally identifiable and sensitive information will be controlled

through the use of logins and password protection,

* + - Once a project is completed, all associated electronic documentation must be contained in a 'zipped' file, accurately named/dated and stored within a secure folder on the network of HEEHT. This will decrease storage space and will keep all common documentation together
		- Computers that hold confidential information will be ideally located in rooms that have lockable doors or, if this is not possible, will be secured to the desktop. Laptops and portable devices must be encrypted and stored securely out of sight

# Disposal of Electronically Stored Data

* + - Computer hard drives, which may contain personal information, must be wiped clean before being disposed of or sold, using appropriate “shredding” software. Deleting files or routine formatting will not safeguard sufficiently from the retrieval of data
		- Other data storage media which may contain personal information (such as memory sticks) must have the data overwritten in a manner that fills the drive before disposal or sale, preferably using specialist software
		- Optical storage media which may contain personal information, such as CDs and DVDs, must be physically destroyed before disposal
		- Magnetic storage media which may contain personal information, such as tapes, must be physically destroyed before disposal

# Security Breaches

* + - All security breaches will be reported immediately to the Office Administrator by emailing info@holbeach-hospital.org.uk and informing the management team.
		- All breaches will be assessed as to their risk and action taken appropriate to the breach, including notifying those whom the information concerns as well as regulatory bodies
		- All investigations will be recorded, evaluated, and lessons learnt determined from them
		- HEEHT will follow the GDPR Data Security and Data Retention Policy and Procedure and the GDPR Breach Notification Policy and Procedure

# Inappropriate Destruction of Records

It is a **criminal offence** under the Freedom of Information Act 2000 and the Data Protection Act 2018 to destroy or alter information that has been requested, in an attempt to avoid disclosure. If a record is inappropriately destroyed (e.g. a record which is subject to a request under the Freedom of Information or Data Protection Acts), Holbeach & East Elloe Hospital Trust will be informed, and an investigation commenced. Disciplinary action may be taken. Failure to adhere to the policy can result in criminal proceedings against the individual.

# Missing Service User Records

Missing records are a serious risk to Service Users, and it is therefore vital that a tracing procedure is undertaken. Should information go ‘missing’ the following procedures must be followed:

* + - Highlight the fact that a record is ‘missing’ to the Management Team as soon as this becomes apparent
		- Undertake a thorough search for the record in the places that you would normally expect to find it
		- Search in the place that you would normally expect to see the record but look either side, above and below where it should be filed
		- If the record is held electronically, search in other folders or conduct a ‘search’ within your files
		- Should the record remain missing after your search, you will need to contact the Office Administrator and complete an Incident Form, following the Accident and Incident Reporting Procedure
		- Keep a record of all the places that have been searched
		- Ensure that any regulatory or statutory notifications, that are required as a result of the loss, are made.

**6. Definitions**

# Record

* + - Information created, received, and maintained as evidence by an organisation or person, in pursuance of legal obligations or in the transaction of business

# Data Protection Officer

* + - A Data Protection Officer (DPO) is a security leadership role required by the General Data Protection Regulation (GDPR). Data Protection Officers are responsible for overseeing data protection strategy and implementation to ensure compliance with GDPR requirements. The Office Administrator will act as the ‘Data Protection Officer’ under the direction of the Management team.

# Archiving

* + - Storing information when it is no longer required on a day to day or regular basis. In relation to this policy, it is keeping information securely for a specific period of time in accordance with the law, or for insurance purposes

# Disposal

* + - The process of destroying or getting rid of. In this case, securely destroying or contracting others to confidentially and securely destroy records that are no longer required to be kept

**Key Facts - Professionals**

Professionals providing this service should be aware of the following:

* + - All staff at HEEHT have responsibility for maintaining confidentiality and must understand how data protection impacts on their role
		- Holbeach & East Elloe Hospital Trust has a responsibility by law to archive, store and dispose of records securely after their primary use has ceased
		- Only authorised individuals will be permitted to do this, and to access these records
		- All external professionals and staff members have a duty to comply with data protection law and regulations around the handling of information
		- Retention schedules for documents may vary according to local commissioning requirements, insurance company requirements and organisational requirements. HEEHT will agree its retention schedule based on these requirements and agreed codes of practice

**Key Facts - People affected by the service**

People affected by this service should be aware of the following:

* + - The Office Administrator and Manager and Deputy Manager have responsibility for how your information is recorded, stored and destroyed at HEEHT. All staff at HEEHT have responsibilities in relation to keeping sensitive personal data secure and understanding the requirements of GDPR in relation to their role
		- HEEHT needs to keep records about you that relate to your care and treatment (including personal information) to meet certain laws. This could be electronically or on paper
		- Your records need to be kept for a certain amount of time and in a certain way (securely), with only authorised people being able to look at them
		- As soon as records are no longer needed to be kept, they are destroyed in a safe and confidential way to maintain your privacy
		- Sometimes other professionals or places, such as hospitals, may need information to help paint a picture of you and the care or treatment you need. If this is asked for, the Manager, Deputy Manager or Nurse in Charge will make sure they ask you if it is okay to pass it on

**Further Reading**

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

# HEEHT GDPR Policies ICO - The employment practices code:

<https://ico.org.uk/media/for-Organisations/documents/1064/the_employment_practices_code.pdf> **Confidentiality - NHS Code of Practice:** <https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice>

**The NHS Care Record Guarantee:** [http://webarchive.nationalarchives.gov.uk/20130513181549/http://www.nigb.nhs.uk/guarantee](http://www.nigb.nhs.uk/guarantee) **Data Security and Protection Toolkit:** <https://www.dsptoolkit.nhs.uk/>

# Best Practice Standards:

* + - ISO 15489 - Records Management Standard
		- ISO 27001 – Information Security Standard
		- Records Management Code of Practice for Health and Social Care 2016
		- DoH Records Management Roadmap
		- Confidentiality: NHS Code of Practice
		- Information Security NHS Code of Practice
		- Lord Chancellor's Code of Practice on the Management of Records Issued under (s.46) of the Freedom of Information Act
		- The National Archive: Essential Records Management
		- Connecting for Health – Information Governance Toolkit Standards

**Outstanding Practice**

To be ‘ outstanding ’ in this policy area you could provide evidence that:

* + - The wide understanding of the policy is enabled by proactive use of the QCS App
		- Clear retention and destruction schedules are kept, which are accurately used to only retain information for the time period necessary
		- All staff at HEEHT understand their responsibilities in relation to sensitive personal data and understand the requirements of GDPR in relation to their role
		- HEEHT has robust risk management procedures in place and undertakes a root cause analysis when incidents occur so that lessons learned can be applied

**Forms**

The following forms are included as part of this policy:

|  |  |  |
| --- | --- | --- |
| **Title of form** | **When would the form be used?** | **Created by** |
| Archive Retention Record - AB01 | This form must be used to log any records that need to be archived. | QCS |
| Retention Schedule Guidance - AB01 | When considering how long data may need to be retained for. | QCS |

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| **Retention of data and records is an extremely complex and constantly changing area. Complex regulations may govern the length of time records have to be held with UK public sector records also having specific retention schedules. This information specifically relates to England and providers must consider the schedule and confirm the retention period meets their own contractual and insurance requirements before applying any of the retention periods. This list is not exhaustive and reflects a number of different document retention guidance documents** |
| **Category** | **Type of Document** | **Format** | **Retention Period** |
| **Employment** | Duty Rotas | Paper/Electronic | 7 years after date to which they relate |
| **Employment** | Health Assessment Records for Night Workers | Paper/Electronic | 7 years from the date they were entered into |
| **Employment** | Criminal Convictions of workers | Paper/Electronic | Deleted once conviction is spent under Rehab of Offenders Act |
| **Employment** | Disclosure and Barring Certificate | Paper/Electronic | Key data can be retained in Personnel Record |
| **Employment** | Annual Leave Record | Paper/Electronic | 7 years |
| **Employment** | Immigration Checks | Paper/Electronic | 7 years after termination of employment |
| **Employment** | Collective Workforce Agreements and Works Council Minutes | Paper/Electronic | Permanently |
| **Employment** | Consents for the processing of personal and sensitive data | Paper/Electronic | For as long as the data is being processed and up to 7 years afterwards |
| **Employment** | Application Forms and Interview Notes (for unsuccessful candidates) | Paper/Electronic | Less than 6 months  |
| **Employment** | Employment Records- Qualifications | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Employment Records- References | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |

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| **Employment** | Employment Records- Annual Appraisal Reports | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Employment Records - Job History | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Employment Records - Resignation, termination and/or retirement letters | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Employment Records - Disciplinary | Paper/Electronic | Up to 7 years after employment ceases, dependent upon the disciplinary action taken and according to the Disciplinary Policy(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Employment Records - Grievance | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Employment Records - Travel and subsistence | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Occupational Health Reports | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) if summary has been made |
| **Employment** | Clinical Training Records | Paper/Electronic | Throughout employment and up to 7 years after employment ceases(or 75th birthday whichever is sooner) |
| **Employment** | Mandatory Training | Paper/Electronic | Throughout employment and up to 7 years after employmentceases (or 75th birthday whichever is sooner) |
| **Employment** | Other Training | Paper/Electronic | Throughout employment and up to 7 years after employment ceases (or 75th birthday whichever is sooner) |

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| **Service User** | Adult Care Records | Paper/Electronic | 7 years from when care ceased if no serious incidents recorded |
| **Service User** | Child Care Records (former Physiotherapy Department patients) | Paper/Electronic | 25th Birthday if no serious incidents recorded |
| **Service User** | Records of Detention, Restraint, DoLS | Paper/Electronic | 7 years from when care ceased |
| **Service User** | Incidents (serious) | Paper/Electronic | 7 years from when care ceased and review |
| **Service User** | Incidents (non-serious) | Paper/Electronic | 7 years from when care ceased and review |
| **Administration** | Fire & general risk assessments, including Buildings and Health & Safety | Paper/Electronic | 7 years  |
| **Administration** | Water safety | Paper/Electronic | 7 years |
| **Administration** | Maintenance of premises | Paper/Electronic | 7 years |
| **Administration** | PAT testing | Paper/Electronic | 7 years |
| **Administration** | Maintenance of equipment | Paper/Electronic | 7 years |
| **Administration** | Accident Books, Accident Records/Reports | Paper/Electronic | 7 years from date of last entry (or if involves young adult/child until they reach 21 years old) |
| **Administration** | Records of Visitors | Paper/Electronic | 7 years |
| **Administration** | Minutes of all meetings including staff meetings and Trustee meetings | Paper/Electronic | 7 years |

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| **Financial** | Payroll (including leavers) | Paper/Electronic | 7 years |
| **Financial** | Financial Accounts | Paper/Electronic | 7 years |
| **Financial** |  Audited bound accounts | PaperElectronic | 7 yearsPermanent |
| **Financial** | Employers Liability Insurance |  Paper | 40 years |