Records Management Policy

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Version number & Status	5
First published:	April 2013
Date updated:	January 2024
Next review date:	January 2025
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Policy approved by and Date:	Executive Committee Group – January 2024
Brief summary of changes since previous version:	New policy to reflect the merger of NHS Digital, Health Education England and NHS England.

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Contents

1. Purpose

1.1 Effective records management ensures that information is properly managed and is available whenever and wherever there is a need for that information.

1.2 Documents and records are not the same. Records are created to provide information about what happened, what was decided, and how to do things. Records have strict compliance requirements regarding their retention, access, and destruction.

1.3 This is NHS England's overarching corporate records management policy (**Policy**). It:

    a. Sets out key definitions used in the Policy.

    b. Identifies the information to which this Policy applies.

    c. Sets out the key legal and professional obligations in relation to records management.

    d. Describes the standards of practice we require in the management of our corporate Records.

    e. Aims to ensure we keep the Records we need for business, regulatory, legal and accountability purposes.

    f. Sets out the strategic governance arrangements for all documents and Records, produced and received by NHS England in accordance with legislative requirements and policy statements. These documents and Records collectively form NHS England's information assets.

    g. Sets out the consequences of breaching this Policy.

    h. Sets out roles and responsibilities.

2. Scope

2.1 All NHS England directorates and regions fall within the scope of this Policy. This includes staff who are employed on a permanent, fixed term or zero-hours basis, contractors, temporary staff, secondees and volunteers. It also covers non-executive directors and non-executive associate directors. We refer to the terms "**Staff**" within this Policy to cover all of these different types of staff.

2.2 Staff of the following NHS areas are also within the scope of this Policy:

    a. All Commissioning Support Units

    b. Strategic Clinical Networks

    c. Clinical Senates

    d. Sustainability and Transformation Partnerships

    e. All other NHS England hosted bodies.

2.3 Compliance with this Policy is mandatory and applies to all information in all formats. It covers all stages within the information lifecycle, including creation / receipt, maintenance / use, document appraisal, records declaration, record appraisal, retention, and disposition.

3. Policy Statement

Key Definitions used in this Policy

3.1   The following terms are used in this Policy and have the meanings set out below:

Term	Meaning
Data Protection	The protection of Personal Data and the actions we take to ensure that we comply with the law.
EIR	The Environmental Information Regulations 2004
FOIA	The Freedom of Information Act 2000
Information Asset Owners (IAOs)	IAOs are senior individuals responsible for each identified information asset (e.g. dataset, database or ICT system) at the appropriate business level within NHS England.
Information Governance	This is our overall strategy and framework we apply for managing information within our organisation. Good Information Governance supports our compliance with our Data Protection obligations.
NHS England's Record Retention and Disposal Schedules	The Records Retention and Disposal Schedule available on the Records Management Intranet Site here: Disposal of Records (sharepoint.com)
Personal Data	Any information relating to an identified or identifiable person. An identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier, such as a name or a number. This includes Pseudonymised Data. For the purposes of this Policy, this also includes all information relating to an identified or identifiable person who has died.
Primary Care Services Retention Schedule	The PCS Retention and Disposal Schedule is available at PCS Retention and Disposal Schedule.
Processing	Operations performed on information including: • collection, recording, organisation, structuring or storage, • adaptation or alteration, • retrieval, consultation or use, • disclosure by transmission, dissemination or otherwise making available, • alignment or combination, or

	• restriction, erasure or destruction.
Primary Care Records	*[To be defined]*
Pseudonymised Data	Data which has had identifiers removed from it so that it is no longer possible to identify a specific person without the use of those identifiers or additional information, which is kept separately and is subject to technical and organisational controls.
Record	Information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business.
Subject Access Requests	A request from individuals for access to the Personal Data we Process about them, including providing copies of it. We must comply with these requests generally within one month under UK GDPR.
Staff	Staff who are employed on a permanent, or fixed term or zero-hours basis, contractors, temporary staff, secondees and volunteers. It also covers non-executive directors and non-executive associate directors.
UK GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.

The information to which this Policy applies

3.2   This Policy applies to all documents and Records held by or on behalf of NHS England, regardless of format.

3.3   A Record is information created, received, and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business. Moe information about what a Record is can be found on the Records Management Intranet Site: What is a record? (sharepoint.com)

Legal and professional obligations relating to records management

3.4   We are required to comply with various legal and professional obligations which relate to the management of our Records including:

   a.   The Public Records Act 1958

b. The Access to Health Records Act 1990

c. The Freedom of Information Act 2000

d. The Inquiries Act 2005

e. UK GDPR

f. The Data Protection Act 2018

g. The NHS Records Management Code of Practice 2021

h. The Code of Practice on the Management of Records issued under section 46 of the Freedom of Information Act 2000

i. NHS Information Governance: Guidance on Legal and Professional Obligations

j. ISO 15489 (the International British Standard for Records Management).

k. BS10008 Standards for Legal Admissibility

3.5 Records management is about controlling Records within a framework. This framework is made up of this Policy and local guidance and standard operating procedures, which are available on the Records Management Intranet Site (Records Management - Home (sharepoint.com) and should be read in conjunction with the Policy.

3.6 NHS England operates an 'in place' records management policy, which means Records are created, stored and managed in approved applications, rather than being moved to one centralised location.

3.7 Staff must complete the mandatory Records Management training as part of NHS England's Mandatory and Statutory Training (Mandatory and Statutory Training - please complete your training (sharepoint.com)) and keep this up to date on an annual basis.

3.8 Staff must not alter, deface, block, erase, destroy or conceal Records with the intention of preventing disclosure under a request relating to the Freedom of Information Act 2000, Environmental Information Regulations 2004, the Inquiries Act 2005 or UK GDPR.

3.9 Staff members are expected to manage Records about individuals in accordance with this policy irrespective of their race, disability, gender, age, sexual orientation, religion or belief, or socio-economic status.

3.10 Where Records contain any abbreviations or acronyms which are not listed in the Records Management Acronym Register, Staff should contact the Records Management Team to ensure your abbreviation is added to it.

Record Maintenance

3.11 All documents and Records (electronic and paper) should be maintained in accordance with this Policy.

3.12 Staff are encouraged to save in electronic format wherever applicable. For corporate Records which cannot be digitised and require off site storing contact the Records Management Team for support and advice.

3.13 Paper file storage must be secured from unauthorised access and meet fire regulations. The movement and location of paper Records must also be controlled and tracked end to end to ensure that a Record can be easily retrieved at any time. This will enable the

original Record to be traced and located if required. The tracking history must be held in a shared location.

3.14 Information Asset Owners should ensure they have a contingency or business continuity plan to provide protection for Records which are vital to the continued functioning of NHS England.

3.15 Records and information must be captured, managed and preserved in an organised system that maintains its integrity and authenticity. Records management facilitates control over the volume of Records produced through the use of disposal schedules, which detail the time period for which different types of Record should be retained by an organisation.

3.16 Work is underway to develop a new, joint records management solution for the new, merged organisation and system for declaring Records. Until this is available, legacy arrangements for records declaration should continue, as follows:

a. Former NHS England teams and departments (including transitioned Public Health England and NHSX colleagues) are in the process of moving away from the Atos platforms, and have adopted Office 365 applications to store data, Records and information. In particular, former NHS England teams and departments should continue to utilise the Collaboration Drives (hosted on SharePoint) as their central repository for their Records and information. This will ensure that Records and documents are easily accessible, even in the document owner's absence. Records should be declared in this environment in order to manage retention. More advice and guidance can be sought from the Records Management Team.

b. Microsoft OneDrive replaces the Atos P: drive. OneDrive must not be used for the storage of corporate Records.

c. Microsoft OneNote must not be used for the storage of Records.

d. Former NHS Digital teams and departments should continue to store Records in their legacy records management systems. More advice and guidance can be sought from the Records Management Team.

e. Former Health Education England (HEE) teams and departments should continue to store trainee Records in the Trainee Information System. For all other Records, these should continue to be saved in the HEE SharePoint environment. More advice and guidance can be sought from the Records Management team.

3.17 Where Records contain Personal Data or corporate sensitive information it is a legal requirement that such data is stored securely. You must ensure that you adopt one of two approaches:

a. For Records stored in Office 365 Document Libraries, site owners must ensure that the security permissions are up to date and appropriate.

b. For NHS England Records in shared drives, these must be migrated into an Office 365 Document Library. Site owners must ensure that the security permissions are up to date and appropriate.

3.18 Good record keeping requires information to be recorded at the same time an event has occurred, or as soon as possible afterwards.

3.19 Staff should ensure Records are relevant including their opinions about individuals, as the individual has the right to gain access to their Records via a Subject Access Request under the UK GDPR.

3.20 Important and / or business critical information must not be cascaded via instant messaging (e.g. MS Teams Chat, text messages, WhatsApp messages, Signal, Slack). If such information is distributed via instant message, it is the responsibility of those in possession of the information to ensure the information is extracted and saved as a Record. This extract must be saved in a central repository (e.g. NHS England Office 365 system).

Record Naming

3.21 Record naming is an important process in records management and it is essential that a unified approach is adopted within all areas of NHS England to aid in the management of Records.

3.22 Staff members should refrain from naming folders or files with their own name unless the folder or file contains Records that are biographical in nature about that individual, for example, personnel Records.

3.23 The NHS England standard naming convention should be used for the filenames of all electronic documents and folders created by staff members from the implementation date of this Policy.

3.24 The re-naming of old documents is optional but new documents must follow the standard naming convention.

3.25 Version Control is the management of multiple revisions to the same document. Version control enables us to tell one version of a document from another. For more guidance on this, refer to NHS England's version control guidance.

3.26 Records and documents must be classified in line with the Government Security Classifications

Record Appraisal

3.27 The purpose of the appraisal process is to ensure the Records are examined at the appropriate time to determine whether or not they are worthy of archival preservation, whether they need to be retained for a longer period by NHS England as they are still in use, or whether they should be destroyed.

3.28 Appraisal should only be undertaken after consultation with the Records Management team.

3.29 It is the responsibility of the Staff member who is leaving their current post or the organisation, and their line manager, to identify as part of the exit procedure, specific Records that should be retained in line with NHS England's Record Retention and Disposal Schedules (Disposal of Records (sharepoint.com)).

3.30 In the case of 'orphaned records', it is the responsibility of the accountable Directorate to ensure appropriate record keeping actions are undertaken to safeguard the Records, with advice from the Records Management Team.

Record Retention Schedule

3.31 Records should only be destroyed in accordance with the NHS England's Records Retention and Disposal Schedule. Primary Care Records should only be destroyed in accordance with the NHS England's Primary Care Services Retention Schedule, both of which derive from the best practice outlined in the NHS Records Management Code of Practice 2021. It can be a personal criminal offence to destroy information that has been requested under UK GDPR, the FOIA and EIR in certain circumstances. As such, NHS England needs to be able to demonstrate clearly that records destruction has taken place in accordance with proper retention procedures.

3.32 The Code of Practice on Records Management, issued under Section 46 of the FOIA, requires that records disposal 'is undertaken in accordance with clearly established policies that have been formally adopted'. NHS England's Records Retention and Disposal Schedule is a key component of both organisation's information compliance and allows it to standardise its approach to retention and disposal.

3.33 The recommended retention periods shown on NHS England's Records Retention and Disposal Schedule apply to the official or master copy of the Records. Any duplicates or local copies made for working purposes should be kept for as short a period as possible. Duplication should be avoided unless necessary. It should be clear who is responsible for retaining the master version of a Record and copies should be clearly marked as such to avoid confusion.

3.34 Some types of Records which may be created and kept locally are the responsibility of the local department but may be found under a different function on the retention schedule: for example, where recruitment is carried out by departments, the department shall be responsible for ensuring the disposal of the Records relating to unsuccessful candidate. This type of Record is listed under Human Resources in the retention schedule.

Records Held and/or Transferred for Archiving Purposes

3.35 Records selected for archival preservation and no longer in regular use by NHS England should be transferred to a 'Place of Deposit'. This must be approved by The National Archives and have adequate storage and public access facilities. For NHS England, the appropriate Place of Deposit is The National Archives.

3.36 Following implementation of the Constitutional Reform and Governance Act 2010, in particular Part 6: Public Records and Freedom of Information, non-active Records are required to be transferred no later than 20 years from the creation date of the Record, as required by the Public Records Act 1958.

3.37 The Records Management Team will identify the appropriate Place of Deposit and assist in the transfer of those Records identified.

Record Disposal

3.38 Disposal is the implementation of appraisal and review decisions and the term should not be confused with destruction. A review decision may result in the destruction of Records but may also result in the transfer of custody of Records, or movement of Records from one system to another.

3.39 Records should not be kept longer than is necessary and should be disposed of at the right time. Staff must regularly refer to NHS England's Record Retention and Disposal Schedules available on the intranet.

3.40 The Disposal of Records Form must be completed and submitted to the Records Management Team for advice on next steps. Records must not be destroyed without seeking prior advice from the team.

3.41 Disposal Certificates must be produced for all Records destroyed / deleted. Copies of Disposal Certificates must be provided to the Records Management team.

3.42 Staff must seek specialist advice from the Records Management Team when considering destruction of the organisation's Records through a third party (commercial or public body).

3.43 Staff must seek specialist advice from the Records Management Team when considering off-site storage of the organisation's Records with any third party.

3.44 Short-lived documents such as telephone messages, post-its etc do not need to be kept as Records. If they are business critical, they should be transferred to a more formal document which should be saved as a Record and stored and declared within a central records repository.

Scanning

3.45 Large scale scanning of paper documents into electronic form can be a very expensive option and should only be undertaken after approval of a Business Case by their National Director and following advice from the Records Management Team.

3.46 Guidance on scanning, including the standards to which scanning needs to be carried out to meet legal requirements can be found on the Records Management Intranet Site: Legal Admissibility & Scanning (sharepoint.com)

Legal Holds on Records

3.47 A legal hold is an instruction directing staff to preserve certain Records and information that may be relevant to an actual or potential legal claim, investigation, incident, or inquiry. Further information on legal holds, including current legal holds, can be found on the Records Management Intranet Site Legal Holds (sharepoint.com):

3.48 Multiple legal holds may be in place simultaneously and apply to different Record sets.

3.49 When a legal hold is in place, relevant information must be preserved within the scope of the hold. This means that you must not dispose of Records within the scope of the hold.

3.50 Staff must immediately notify the Records Management Team and seek advice if they have been notified of an actual or potential legal claim, investigation, incident, or inquiry which could result in a legal hold.

3.51 When a legal hold comes to an end, Records which had been covered by the legal hold should be maintained and disposed of in accordance with the organisational retention schedule.

Breaches of this Policy

3.52 A breach of this Policy may result in disciplinary proceedings.

3.53 It is a criminal offence to alter, deface, block, erase, destroy or conceal information with the intention of preventing disclosure of all or part of the information that the person making a Subject Access Request, FOIA or EIR request would have been entitled to receive.

4. Roles and Responsibilities

The roles and responsibilities relating to Records Management within NHS England are set out below.

Role	Responsibility
All Staff and others who this Policy applies to	It is the responsibility of everyone to whom this Policy applies to adhere to this Policy and all Records Management policies and procedures.
Chief Executive	Overall accountability for procedural documents across the organisation lies with the Chief Executive as the Accounting Officer that has overall responsibility for meeting all statutory, legal and regulatory requirements relating to the management of NHS England Records.
Senior Information Risk Owner	The SIRO (the Chief Delivery Officer) is a senior advocate for records management matters at board-level. The responsibilities of the SIRO include: • influencing the Board to foster a culture that values, protects and uses information for the success of the organisation and benefit of its patients, • staying informed about information risks, including records management risks, and managing those risks, • signing off key elements of the Data Security and Protection Toolkit, • overseeing the development of information risk policies, • taking ownership of the organisation's information risk assessment processes, • ensuring that the organisation's approach to information risk is communicated to all staff and effective in terms of resource, commitment and execution, and

	• ensuring the organisation's risk policy is implemented consistently by Information Asset Owners (IAOs).
	The Deputy SIRO is the Director of Privacy and Information Governance, who is authorised to discharge the day-to-day operational responsibilities of the SIRO, including in relation to records management. This does not include the management of information and system security risk and cyber security risk for NHS England data assets and corporate and national IT systems.
	The Chief Information Officer and the Director of Technology Services are authorised to discharge the SIRO's day to day operational responsibilities in relation to the management of information and system security risk for all NHS England data assets and corporate and national IT systems.
	The Director of Cyber Operations and the Chief Information Security Officer are also authorised to discharge the SIRO's day to day operational responsibilities in relation to the management of information and system security and cyber security risk for all NHS England data assets and corporate and national IT systems.
Records Management Team	The Deputy Director Information Governance Delivery (Digital & Operations) and the Records Management Team within Privacy, Transparency and Trust Sub-Directorate of the Delivery Directorate have operational responsibility for this Policy and are responsible for: • the overall development and maintenance of NHS England's Records Management framework and strategy; • for ensuring this Policy complies with legal and regulatory requirements; • for developing and supporting a culture of high-quality records management practice across NHS England; and • knowing what Records NHS England holds and where they are, by conducting or commissioning appropriate records management audits in high-risk business areas.
Data Protection Officer	The Data Protection Officer has responsibility for informing, advising, and monitoring compliance with the UK GDPR and the Data Protection Act 2018 in relation to this Policy.
Director of Human Resources and Organisation Development	NHS England's Director of Human Resources and Organisation Development is responsible for ensuring the management of NHS England Staff Records, and access to those Records, meets the requirements of this Policy.
Records and Information Management	Records and Information Management Coordinators (RIMCs) within each business area will champion records and information management from a local level supporting

Coordinators (RIMCs)	their team in records management matters and ensuring good records management within their area.
Information Asset Owners	IAO's need to: • understand what information is held by their unit or directorate; • address risks to their information; • ensure that information is appropriately protected and marked; • ensure information is used in compliance with all legal requirements, including records management legal requirements, and • provide written input to the SIRO annually on the security and use of their information asset as part of meeting the Data Security and Protection Toolkit requirements.

5. Equality and Health Inequalities Assessment

As part of the development of this Policy, its impact on equality has been analysed and no detriment identified.

6. Associated Documentation

6.1 Further processes and guidance to support implementation of records management within NHS England business areas is available on the Records Management Intranet Site: Records Management - Home (sharepoint.com)

6.2 NHS England's Records Retention and Disposal Schedules, and other associated Data Protection and Information Governance policies are available on NHS England's Policy Library: IT, Information Governance and Records Management Policies (sharepoint.com)