**NI Healthcare Chaplains' Association (NIHCA)**

**Procedure for Documentation, Record-Keeping & Risk**

**1/ Background**

The Data Protection Act 1998 became effective in NI in March 2000.Its main objective is to ensure that the processing of personal data complies with certain key principles which are designed to protect individuals in relation to the disclosure of personal data. The central requirement is that personal data should be processed fairly and lawfully. For health information, this means that the patient understands what their information will be used for and that the common law duty of confidence is complied with.

**2/ Aims**

The Data Protection Act’s (DPA) aim is to protect individuals in many everyday situations. It is not intended to limit people’s access to services such as spiritual care and support, which could help them at vulnerable or distressing times. However, an organisation acting as a data controller is required to carry out its obligations with respect to the DPA and the associated common law duty of confidence. This includes hospital chaplaincy provision and the organisation’s admissions systems.

**3/ Key principle**

Information about patients is held in confidence by the HPSS. In considering arrangements which afford adequate protection, Trusts will find it helpful to relate to the principle that, wherever possible, patients must be given the opportunity to give their permission as to how information about them is used. Patient-identifiable information should not normally be used for any purpose other than that for which it was provided or disclosed without the patient’s explicit consent. This also means that chaplains may not pass on information about patients to representatives of their faith community or any other person without consent of the patient or family.

**4/ Legal points**

Religious affiliation is classed under the Data Protection Act as ‘sensitive personal data’ and any disclosure would therefore be required to satisfy a ‘Schedule 3 condition’(i.e. the Schedule which sets out how, under certain specific conditions, disclosure may be allowed) in addition to the common law of confidentiality. The only exception to the ‘duty of confidence’, is where there is a legal obligation to disclose (such as a court order), or a robust public interest (such as a serious criminal activity).

**5/ Information for patients**

Trusts may inform patients about the availability of chaplaincy services, for example through information leaflets and ‘welcome packs’. This is an evolving area of responsibility and Trusts should ensure that their systems are kept under review.

**6/ Explicit consent**

Systems should be in place to ensure that patients are asked for their permission to pass on information about their spiritual needs to the chaplaincy service.

On (or before) admission to hospital, patients should be asked whether they would like to have their religious affiliation recorded. They should be informed that this data will be processed for one or more specified purposes. Patients should also be asked for permission to pass this information to the chaplaincy service for the purposes of spiritual care.

In order to ensure confidentiality, local information systems must be able to capture individual consent efficiently.

Systems and local guidance should also be able to reflect the decisions of those patients who may change their minds about details being passed to the chaplaincy service.

If a patient who is capable of providing meaningful consent fails to respond to consent-seeking questions, this should be interpreted as unwillingness to have their religious affiliation captured and passed on to chaplaincy services.

**7/ Patients unable to give consent**

The *HPSS Protection* *and Use of Client Information* states the following about disclosure of information, in circumstances when a person’s condition prevents them from conveying consent:

 “*As the law stands, nobody is empowered to give consent on behalf of an adult. However, if a patient or client is unconscious or unable due to his or her mental or physical condition to give informed consent or to communicate a decision, decisions to pass on information will in practice usually be taken by the health or social care professionals concerned, taking into account the patient's or client's best interests and, as necessary, the views of partners, relatives or carers. Such circumstances will usually arise when a patient or client has been unable to give informed consent to treatment or care. An earlier refusal to particular information being passed on, given while a patient or client had the capacity to decide, should, unless there are overriding considerations to the contrary, be regarded as decisive in circumstances similar to those envisaged by the patient or client”.*

**8/ Patient Lists**

Chaplains require accurate information about patients’ religious/denominational affiliation in order to deliver appropriate chaplaincy care. There should be a clear, standard process whereby this information is obtained and accurately recorded.

Generally such information is listed on computer printouts which are made available to the chaplains on a regular basis.

There should be a clear process which chaplains can follow if information on the lists needs to be changed or added.

In order to respond in the most appropriate way to the distinctive religious needs of patients and staff, each member of the chaplaincy team normally retains the religious responsibility for his/her own faith community.

Chaplains with responsibility for Other Faiths should ensure they have an up-to-date record of suitable contacts. This should also be readily available to other appropriate staff.

Chaplains should have a clear system of indicating if/when patients were visited. This should include relevant information about the availability of the patient when visited and any follow-up required.

An annual audit of denominational lists should be compiled after the end of each Hospital year. Other audits may also be carried out as appropriate.

Chaplains may not pass on information about patients to representatives of their faith community or any other person without consent of the patient or family.

Chaplaincy patient lists must not be left unattended in a public place.

Chaplaincy patient lists must not be taken off-site as they contain personal and confidential information about patients. Failure to observe this means the chaplain accepts liability in case of loss.

Loss of any official Trust records must be reported immediately to the Chaplaincy Line-Manager.

In accordance with Department of Health, Social Services and Public Safety (DHSSPS) and Trust guidelines, chaplaincy records must be securely retained for a minimum of three months, after which they must be properly disposed of by shredding using the standard hospital disposal arrangement. Baptismal/naming/memorial records, etc. should normally be securely retained indefinitely as they may have future use.

**9/ Chaplaincy access to patient information**

As members of the Trust multidisciplinary healthcare team, chaplains may access patient information to help inform their provision of appropriate care. Chaplains may also write in comments as appropriate to inform other care providers. External clergy/faith representatives who are not members of the Trust multidisciplinary healthcare team do not have access to patient lists or patient information without appropriate permission.

**10/ Confidentiality**

As employees (paid or honorary) chaplains are bound by Trust policy on confidentiality. Information that is shared between a chaplain and patient should normally be treated in confidence, unless otherwise agreed by the patient, or where there is risk to the life/treatment of the patient or another person. The only exception to the ‘duty of confidence’, is where there is a legal obligation to disclose (such as a court order), or a robust public interest (such as a serious criminal activity). Chaplains will not pass on information about patients to representatives of their faith community or any other person without consent of the patient or family.

**11/ Risk**

1. **Description of hazard - Breach of confidentiality**
* Persons Affected by the Work Activity and How - Chaplains, Patients/Service Users, Staff failings in keeping patient information confidential and private leading to:
* a breach of trust
* complaint of invasion of privacy
* poor media coverage for the Trust
* service disruption
* Existing controls
* The Trust has Policies & Procedures in place for the control of information
* All chaplains are expected to abide by the Code of Conduct for Healthcare Chaplains (UKBHC 2010) (DHSSPSNI 2011)
* Incidents that are reported are recorded and acted upon
* Trust staff receive appropriate training regarding dignity and respect of patients/service users
* Records are kept in a locked cupboard/secure office for a minimum of three months.  When no longer required, patient information is put into the secure disposal bags as per Trust disposal policy
* Emails to clergy - only give patient name, age and ward but not address or details of condition
* Answerphones – only leave a message if clear it is the intended recipient
1. **Description of hazard - Accusation**
* Persons Affected by the Work Activity and How - A chaplain could be the subject of complaint of invasion of privacy or inappropriate behaviour by a patient or other person, particularly of opposite gender or different faith/culture
* Existing controls
* All chaplains are expected to abide by the Code of Conduct for Healthcare Chaplains (UKBHC 2010) (DHSSPSNI 2011)
* Chaplains visit those who have requested a visit or indicated a willingness to receive a visit.
* Chaplains are advised not to enter when a bed is screened off
* It is advisable not to fully close a curtain round the patient’s bed if visiting someone who is alone
* If a side room door is closed, knock first and ask permission to enter. If in doubt, ask a member of nursing staff
* If a chaplain is uncomfortable resulting from a visit, he/she should advise a member of ward staff and a chaplaincy colleague. It may be appropriate to record this in the nursing notes and also to keep an official record in the dept.

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**Sources:**

Sections 1 – 7 taken from Section 3 - Confidentiality and data protection “HPSS Chaplaincy: Meeting the religious and spiritual needs of patients and staff” - *Guidance for managers and those involved in the provision of chaplaincy (Adopted in NI Dec 2004)*

Belfast HSC Trust Chaplaincy Department *Procedure for Record Keeping* (2009)

Belfast HSC Trust Chaplaincy Department *General Risk Assessment* (2013)

DHSSPSNI *Good Management Good Records* (2011)

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**(Adopted by NIHCA Executive Council 24th January 2014)**