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|  **Review Sheet** |
| Last Reviewed Last Amended Next Planned Review in 12 months, or09 Dec '24 09 Dec '24 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 details Caldicott Guardian principles and guidance for implementation. Section4.3 has been updated to include clinics and other customers who are not obliged to follow the guidance, but choose to follow as best practice. Underpinning Knowledge and Further Reading links have also been checked and updated. |
| Relevant legislation: | * The Health and Social Care (National Data Guardian) Act 2018
* The Computer Misuse Act 1990
* Access to Medical Reports Act 1988
* Freedom of Information Act 2000
* Health and Social Care Act 2008 (Registration and Regulated Activities) (Amendment) Regulations 2015
* Human Rights Act 1998
* Mental Capacity Act 2005
* Mental Capacity Act Code of Practice
* Safeguarding Vulnerable Groups Act 2006
* Access to Health Records Act 1990
* Data Protection Act 2018
* UK GDPR
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| Underpinning knowledge - What have we used to ensure that the policy is current: | * Author: The UK Caldicott Guardian Council, (2024), *The Caldicott Guardian Register*. [Online] Available from: <https://www.ukcgc.uk/register>[Accessed: 9/12/2024]
* Author: The UK Caldicott Guardian Council, (2024), *We are the National Body for Caldicott Guardians in the UK*. [Online] Available from: <https://www.ukcgc.uk/> [Accessed: 9/12/2024]
* Author: National Data Guardian, (2021), *National Data Guardian Guidance on the Appointment of Caldicott Guardians, their Role and Responsibilities*. [Online] Available from: [https://www.gov.uk/government/publications/national-data-guardian-guidance-on- the-appointment-of-caldicott-guardians-their-role-and-responsibilities](https://www.gov.uk/government/publications/national-data-guardian-guidance-on-the-appointment-of-caldicott-guardians-their-role-and-responsibilities) [Accessed: 9/12/2024]
* Author: GOV.UK, (2024), *National Data Guardian*. [Online] Available from: [https://www.gov.uk/government/organisations/national-data-guardian#:~:text=The% 20National%20Data%20Guardian%20(NDG,of%20Health%20and%20Social%20Care.](https://www.gov.uk/government/organisations/national-data-guardian#%3A%7E%3Atext%3DThe%20National%20Data%20Guardian%20(NDG%2Cof%20Health%20and%20Social%20Care) [Accessed: 9/12/2024]
* Author: GOV.UK, (2018), *Health and Social Care (National Data Guardian) Act 2018*. [Online] Available from: <https://www.legislation.gov.uk/ukpga/2018/31/contents/enacted> [Accessed: 9/12/2024]
* Author: Information Commissioner's Office, (2024), *About the ICO*. [Online] Available from: <https://ico.org.uk/>[Accessed: 9/12/2024]
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| Suggested action: | * Encourage sharing the policy through the use of the QCS App
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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.

Equality Impact Assessment:

**1. Purpose**

* 1. This policy aims to give guidance specific to the appointment, roles and responsibilities of a Caldicott Guardian at Kope-Medics Ltd.
	2. The policy dovetails with UK GDPR, data protection policies and procedures at Kope-Medics Ltd such as:
		+ The Data Protection and Confidentiality Policy and Procedure
		+ The Data Security and Protection Toolkit (DSPT) Policy and Procedure
		+ The Archiving, Disposal and Storage of Records Policy and Procedure Other policies of Kope-Medics Ltd may be affected by this policy.
	3. To support Kope-Medics Ltd in meeting the following Key Lines of Enquiry/Quality Statements (New):

## Key Question Key Lines of Enquiry Quality Statements

**(New)**

|  |  |  |
| --- | --- | --- |
| EFFECTIVE | E7: Is consent to care and treatment always sought in line with legislation and guidance? | QSE6: Consent to care and treatment |
| SAFE | S2: How are risks to people assessed and their safety monitored and managed so they are supported to stay safe and their freedom is respected? | QSS4: Involving people to manage risksQSS5: Safe environments |

* 1. To meet the legal requirements of the regulated activities that Kope-Medics Ltd is registered to provide:
* The Health and Social Care (National Data Guardian) Act 2018
* The Computer Misuse Act 1990
* Access to Medical Reports Act 1988
* Freedom of Information Act 2000
* Health and Social Care Act 2008 (Registration and Regulated Activities) (Amendment) Regulations 2015
* Human Rights Act 1998
* Mental Capacity Act 2005
* Mental Capacity Act Code of Practice
* Safeguarding Vulnerable Groups Act 2006
* Access to Health Records Act 1990
* Data Protection Act 2018
* UK GDPR

**2. Scope**

* 1. The following roles may be affected by this policy:
* All staff
* Registered Manager
* Other management
* Caldicott Guardian
	1. The following Clients may be affected by this policy:
* Clients
	1. The following stakeholders may be affected by this policy:
* Family
* Advocates
* Representatives
* Commissioners
* External health professionals
* Local Authority
* NHS

**3. Objectives**

* 1. This policy seeks to ensure that staff at Kope-Medics Ltd understand the Caldicott Principles and the role of the Caldicott Guardian.
	2. To ensure that the appointed Caldicott Guardian safeguards the integrity, confidentiality and availability of sensitive information held by Kope-Medics Ltd.
	3. To ensure that the sharing of any person identifiable information is done so following UK GDPR, data protection policies and procedures at Kope-Medics Ltd.

**4. Policy**

* 1. To ensure that no person identifiable information is shared unless approved by Kope-Medics Ltd.
	2. To ensure that all person identifiable information held by Kope-Medics Ltd is managed in line with legal requirements and best practice principles.

This information can be in a number of formats and includes:

* + - Information stored on computers
		- Information transmitted across networks
		- Printed information or information stored on paper
		- Spoken or recorded information

## National Data Guardian (NDG) Guidance

The National Data Guardian guidance applies to all public bodies within the health service, adult social care or adult carer support sector in England that handle confidential information about Clients.

This also includes organisations contracted by public bodies to deliver health or adult social care services that handle such information.

Where Kope-Medics Ltd falls under this guidance, it will seek to comply with its recommendations. In the event that Kope-Medics Ltd is not obligated to comply with this guidance (for example, it is not contracted by public bodies to deliver health or adult social care services) it will, as far as practicable, implement and comply with this policy as best practice, with the understanding that it is not obligated to do so.

## Appointing a Caldicott Guardian

In line with National Data Guardian guidance, Kope-Medics Ltd will be compliant with the guidance by 30 June 2023. This includes registering the details of an appointed Caldicott Guardian on the Caldicott Guardian Register.

Where an organisation is required to complete the Data Security and Protection Toolkit (DSPT), the DSPT requires that it will provide details about its Caldicott Guardian(s) as part of its annual submission.

* 1. **The Eight Caldicott Principles** (as defined by the UK Caldicott Guardian Council) Good information sharing is essential for providing safe and effective care and support.

There are also important uses of information for purposes other than individual care and support, which contribute to the overall delivery of health and social care or serve wider public interests.

These principles apply to the use of confidential information within health and social care organisations, and when such information is shared with other organisations and between individuals, both for individual care and support and for other purposes.

The principles are intended to apply to all data collected for the provision of health and social care services where Clients can be identified and would expect that it will be kept private. This may include, for instance, details about symptoms, diagnosis, treatment, names and addresses.

In some instances, the principles will also be applied to the processing of staff information.

They are primarily intended to guide organisations and their staff, but it must be remembered that Clients and/or their representatives must be included as active partners in the use of confidential information.

Where an unusual or difficult judgement or decision is required, it is advisable to involve the Caldicott Guardian.

## Principle 1 - Justify the purpose(s) for using confidential information

Every proposed use or transfer of confidential information must be clearly defined, scrutinised and documented, with continuing uses regularly reviewed by an appropriate guardian.

## Principle 2: Use confidential information only when it is necessary

Confidential information must not be included unless it is necessary for the specified purpose(s) for which the information is used or accessed. The need to identify individuals must be considered at each stage of satisfying the purpose(s) and alternatives used where possible.

## Principle 3: Use the minimum necessary confidential information

Where the use of confidential information is considered to be necessary, each item of information must be justified so that only the minimum amount of confidential information is included as necessary for a given function.

## Principle 4: Access to confidential information must be on a strict need-to-know basis

Only those who need access to confidential information must have access to it, and then only to the items that they need to see. This may mean introducing access controls or splitting information flows where one flow is used for several purposes.

## Principle 5: Everyone with access to confidential information must be aware of their responsibilities

Action must be taken to ensure that all those handling confidential information understand their responsibilities and obligations to respect the confidentiality of Clients.

## Principle 6: Comply with the law

Every use of confidential information must be lawful. All those handling confidential information are responsible for ensuring that their use of, and access to, that information complies with legal requirements set out in statute and under the common law.

## Principle 7: The duty to share information for individual care is as important as the duty to protect Client confidentiality

Health and social care professionals must have the confidence to share confidential information in the best interests of Clients within the framework set out by these principles. They must be supported by the policies of their employers, regulators and professional bodies.

## Principle 8: Inform Clients about how their confidential information is used

Steps must be taken to ensure no surprises for Clients, so they can have clear expectations about how and why their confidential information is used, and what choices they have. These steps will vary depending on the use: as a minimum, this must include providing accessible, relevant and appropriate information - in some cases, greater engagement will be required.

* 1. The Caldicott Guardian should be involved appropriately in issues relating to the Clients confidential information to ensure it is used legally, ethically and appropriately, including adherence to the common law duty of confidentiality.
	2. Kope-Medics Ltd will ensure that Clients and their families are included in the use of confidential information, and that the Caldicott Guardian is available to them.
	3. Olakunle Opejin will ensure that the contact details for the Caldicott Guardian are publicly available to staff and Clients.

**5. Procedure**

## Appointment of the Caldicott Guardian

Kope-Medics Ltd will make a business decision in order to meet the requirements as set out in the NDG guidance and will consider the options fully before appointing a Caldicott Guardian.

The options available to Kope-Medics Ltd are:

* + - Kope-Medics Ltd appoints its own Caldicott Guardian
		- The appointment of a Deputy Caldicott Guardian, such as the Registered Manager
		- Sharing a Caldicott Guardian with one or more other organisations
		- The commissioning bodies who contract Kope-Medics Ltd may agree that their organisation’s Caldicott Guardian would be available to provide advice

If Kope-Medics Ltd chooses not to appoint its own Caldicott Guardian, the rationale for this decision will be officially recorded within the organisation's quality assurance, governance process and detailed in the appropriate policies and procedures.

Any decision for Kope-Medics Ltd not to appoint its own Caldicott Guardian will be subject to annual review by Olakunle Opejin.

## Deputy Guardian

If Kope-Medics Ltd appoints its own Caldicott Guardian, it should consider the need to appoint a deputy. A deputy can provide cover for when the Caldicott Guardian is not available due to annual leave.

## Competencies and Knowledge

When appointing a Caldicott Guardian it should be an individual:

* + - With the ability to apply the Caldicott Principles wisely
		- With the ability and courage to speak openly and with authority to the highest level decision maker within the organisation
		- Able to act with compassion, integrity, objectivity, honesty and in the best interests of Kope-Medics Ltd’s service users, recognising their advice will affect people
		- With a strong commitment to the role
		- Inquisitive to question, analyse and challenge decision-makers
		- Able to apply wise judgement to the precise circumstances of each case
		- With good interpersonal and communication skills
		- With good understanding of the common law duty of confidentiality
		- With knowledge and awareness of the wider legal frameworks relevant to information governance
		- Preferably with experience and knowledge of working with Clients

## Caldicott Guardian Registration

Kope-Medics Ltd will ensure that the appointed Caldicott Guardian's details will be recorded and kept up to date on the Caldicott Guardian Register[.](https://digital.nhs.uk/services/organisation-data-service/update-your-data/registers#caldicott-guardian)

This will be the case for any internal or external appointment.

## Roles and Responsibilities of the Caldicott Guardian

Kope-Medics Ltd follows the guidance on roles and responsibilities issued by the National Data Guardian. Supported by Kope-Medics Ltd, the Caldicott Guardian will:

* + - Ensure confidential information about Clients is used ethically, legally, and appropriately
		- Provide organisational leadership and informed advice on complex matters involving the use and sharing of Client confidential information, especially in situations where there may be areas of legal and/or ethical ambiguity
		- Be the lead role ensuring that Kope-Medics Ltd satisfies the highest ethical and legal standards for processing Client confidential information. Their main concern is confidential information relating to Clients and their Care. However, in some circumstances, the Caldicott Guardian’s judgement may also be needed in relation to the use of information about other individuals, such as staff or relatives of Clients
		- Be required to support staff at Kope-Medics Ltd in a number of operational areas. They may include:
			* Advising on disclosures of confidential information, in particular, whether they can be made in line

with the common law duty of confidentiality

* + - * Involvement with Client complaints
			* Reviewing and advising on data protection impact assessments, data sharing agreements, and instructions to data processors working in partnership with the IT Manager, Olu Olujohungbe
			* Involvement in audit reporting or recommendations
			* Involvement in data breach investigations in partnership with the IT Manager, Olu Olujohungbe
		- Promote the Caldicott Principles and good information governance throughout Kope-Medics Ltd, using the Principles to encourage and facilitate decisions in the best interests of Clients and their care and support
		- Ensure that information sharing is safe and effective, in line with the seventh Caldicott Principle (see section 4.4)
		- Uphold the Caldicott Principles, ensuring at all times that Kope-Medics Ltd uses and shares information in line with the common law duty of confidentiality, data protection law and human rights

In addition to the Caldicott Principles, the Caldicott Guardian must also take account of the codes of conduct provided by professional bodies.

## Other Key Organisational Roles

The role of the Caldicott Guardian may overlap with other organisational processes, roles and responsibilities. Whether the role is an internal or external appointment, they will be required to work in partnership (where appropriate and required to do so) with additional roles held within Kope-Medics Ltd such as:

* + - Head of Information Governance
		- Chief Clinical Information Officer
		- Chief Information Security Officer
		- Senior Information Risk Owner (SIRO)
		- Data Protection Officer (DPO)

The input of the appointed Caldicott Guardian may be required at meetings such as:

* + - Clinical multidisciplinary teams
		- Clinical governance teams
		- Information management and technology teams
		- Safeguarding teams
		- Health and social care external agencies and the police

## Support

Kope-Medics Ltd should support the Caldicott Guardian to perform their role:

* + - Kope-Medics Ltd will provide access to the Client's confidential information, if appropriate
		- The Caldicott Guardian should not be dismissed or penalised for performing their role and responsibilities
		- Kope-Medics Ltd will enable the Caldicott Guardian to have engagement with the Client on issues that relate to the use of confidential information about those that use Kope-Medics Ltd

## Complex Situations

In certain complex situations the Caldicott Guardian may seek support before reaching a decision about sharing personal data, this could include:

* + - Taking legal advice
		- Speaking to other Caldicott Guardians
		- Speaking to the UK Caldicott Guardian Council

## Learning and Development

The UK Caldicott Guardian Council (UKCGC) online manual for Caldicott Guardians is intended to be a starting point for newly-appointed Caldicott Guardians, a refresher for the more experienced Caldicott Guardian, and a source of information for professional development and support.

Kope-Medics Ltd accepts the importance and complexity of the role of Caldicott Guardians and the requirements for specialist training to support the post holder.

Regular supervision will be in place to enable staff to reflect on the roles and responsibilities carried out. Kope-Medics Ltd will ensure that annual review and personal development plans will be in place to support and identify any training and support needs that may be required to ensure the post holder has the required knowledge and skills to carry out their duties in line with regulatory requirements.

The Caldicott Guardian may also require additional training and support with the Data Security and Protection Toolkit (DSPT), if required.

The UKCGC has provided a checklist for new Caldicott Guardians and a link is available in the Further Reading section.

## Accountability and Audit

The Caldicott Guardian will:

* + - Be provided with the time and autonomy by Kope-Medics Ltd to carry out the role and to make decisions and judgements on matters of confidentiality, sharing information and disclosure
		- Be responsible for keeping appropriate records of actions and advice given - a template form is available in the Forms Section of this policy
		- Attend appropriate governance and, where required, board level meetings, both to feedback on work undertaken and to produce an annual report detailing any actions taken and required as well as ongoing, continuous improvements in the data protection processes at Kope-Medics Ltd
		- Have access to appropriate senior management advice and support to access legal frameworks where decisions may be beyond the scope of the Caldicott Guardian

**6. Definitions**

## The Caldicott Report

* + - The Caldicott Report was commissioned in December 1997 by the Chief Medical Officer of England owing to increasing concern about the ways in which patient information was used in the NHS in England and Wales and the need to ensure that confidentiality was not undermined

## Identifiable Information

* + - Client identifiable information can take many forms and can be stored on computers, transmitted across networks, printed or stored on paper, spoken or recorded

## The Data Protection Act

* + - The Data Protection Act 2018 controls how personal information is used by organisations, businesses or the Government
		- The Data Protection Act 2018 is the UK’s implementation of the General Data Protection Regulation (UK GDPR)

## UK General Data Protection Regulation

* + - The UK GDPR is the retained EU law version of GDPR that forms part of English law

## Information Commissioner's Office (ICO)

* + - The UK’s independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals

## Caldicott Guardian

* + - Caldicott Guardians are senior people who act on behalf of Kope-Medics Ltd and who protect the confidentiality of people’s information by considering the ethical and legal aspects of data sharing
		- They play a vital role in ensuring that health and social care data is used responsibly to support the delivery of better care and support

## The National Data Guardian (NDG)

* + - The NDG acts as an independent advocate for patients and service users about how health and adult social care data is used

**Key Facts - Professionals**

Professionals providing this service should be aware of the following:

* + - Individuals can only access Clients' personal identifiable information if the Caldicott Guardian or Client says they can or if they have to as a result of due legal process
		- The sharing of information without a Client's consent if there is a risk of serious harm to a Service User or other, or there is a risk of a serious crime, is done following approval from the Caldicott Guardian
		- The Caldicott Guardian ensures that the information obtained by Kope-Medics Ltd is necessary, proportionate, relevant, accurate, timely and secure
		- The Caldicott Guardian ensures that any information shared by Kope-Medics Ltd is necessary for the purpose of sharing it, is shared only with those people who need to have it, is accurate and up to date, is shared in a timely fashion, and is shared securely and in line with the Caldicott Principles

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

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

* + - You have a right to confidentiality and the privacy of your information. However, staff may have to share information about you in your best interests
		- Where possible, staff will obtain your consent to share information about you. Where this is not possible, Kope-Medics Ltd will follow policies and procedures in order to protect your rights
		- If you are unable to consent to share information because you lack mental capacity, staff will need to follow the Mental Capacity Act Code of Practice
		- The Caldicott Guardian at Kope-Medics Ltd will ensure your rights are protected and that Kope-Medics Ltd follows the correct legal frameworks

**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:

## The UK Caldicott Guardian Council - Are you a new Caldicott Guardian Wondering where to Start?

<https://www.ukcgc.uk/checklist-for-new-guardians>

**The UK Caldicott Guardian Council - E-learning Programme:** <https://www.ukcgc.uk/news/new-sessions-go-live-in-caldicott-guardian-elearning-programme> **The UK Caldicott Guardian Council - A Manual for Caldicott Guardians:** <https://www.ukcgc.uk/caldicott-guardians-manual>

**NHS England - About the Role of the Caldicott Guardian Programme:** <https://www.e-lfh.org.uk/programmes/the-role-of-the-caldicott-guardian/> **NHS England - Data Security and Protection Toolkit:** <https://www.dsptoolkit.nhs.uk/>

## QCS Blog available in the Resource Centre:

Caldicott Guardian Guidance Explained (updated June 2023)

**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
		- Clients' privacy needs and expectations are identified, recorded, and met as far as is reasonably possible
		- Kope-Medics Ltd has a Caldicott Guardian in place to ensure the Caldicott Principles are followed
		- Staff are registered as Dignity Champions and can evidence that they follow the 'Dignity Dos'
		- Robust systems and governance processes ensure that staff's and Clients' personal identifiable information is protected at all times

**Forms**

The following forms are included as part of this policy:

|  |  |  |
| --- | --- | --- |
| **Title of form** | **When would the form be used?** | **Created by** |
| Caldicott Guardian - AC35 | To identify who the nominated Caldicott Guardian is. | QCS |
| Example Information Sharing Decision Log - AC35 | To document any information shared, decisions made and the reasoning behind them in the interests of transparency and accountability. | QCS |

# Caldicott Guardians are senior people who act on behalf of Kope-Medics Ltd and who protect the confidentiality of people’s information by considering the ethical and legal aspects of data sharing.

They play a vital role in ensuring that health and social care data is used responsibly to support the delivery of better care and support.

The Caldicott Guardian at Kope-Medics Ltd is Olakunle Opejin.

**Name of Information Asset Owner: Department:**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Date and Time** | **Information Requested/Ref No.** | **Name of Requestor/ Agency****and Contact Details** | **Decision to Share (Y/N) and Reason** | **Who Consented/ Authorised/ Informed?** | **Type of Information Shared** | **How Information was Shared** |
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