



Policy Section,  
Data Protection Agency,  
Canal House,  
Portarlinton,  
Co. Laoise

29<sup>th</sup> November 2010

Dear Sir/Madam,

The Irish Association of Social Workers (IASW) has recently established a working group to look into the introduction of electronic record keeping and data protection of client records and to consider the implications of this for the social work profession and its commitment to client confidentiality. In order to clarify a number of issues, a member of the working group has had discussions with Diarmuid Hallinan in your Agency and he advised that we write to you to seek guidance from the policy section.

## **Background**

The introduction of electronic record-keeping has brought new challenges as well as new policies and procedures to many health care settings, especially for those agencies that provide health and social services. Some of these health care settings have adopted the use of a single electronic file system and it is expected that this will be norm for a large number of service providers in the future.

The experience to date in the few multi-disciplinary agencies that have adopted the single electronic record is varied. Some have provided tiered access while other have taken an open approach where the information is open to all members of that multi-disciplinary team. Open access can mean 15 – 20 team members in small organisations have access to all information and the numbers could be significantly larger in different settings like hospitals. It also needs to be born in mind that once that record is in existence, it will equally be open to subsequent members of staff, which greatly increases the numbers that can have access to information that may not have any relevance at that stage of a person's interaction with the agency or service provider.

Multi-disciplinary team settings collect a vast amount of information on their service-users and consent is sought to record and store this information. It has been the practice for social workers to record their professional notes separately, either on paper files or by password protected-linked sites, i.e. tiered access. We agree with the principle that relevant information should be shared where appropriate as the other members of the multi-disciplinary team need to know that the social work service has contact with the service-user.

In child related services, the family also becomes a service user, so the information gathered involves the whole family. The nature of the work of a social worker with the clients and their families means that social workers often have very sensitive/personal information on aspects of



their lives. Information such as relationship difficulties, family functioning, mental health, past trauma, feelings of guilt, anger and vulnerabilities all relating to the family are shared in this relationship. The safeguarding of such confidential data is a client's and family's expectation and is inherent in the relationship of trust that is built up and is a key part of the social work task.

Internationally, data controllers in health and social service agencies operate a tiered access to facilitate such confidential data and work on a need to know basis. Consent lies at the heart of the issue and how data collection is sought from clients and service-users. Clients are not however asked to sign a blanket consent permitting access by a wide range of professional users to their sensitive and personal information. The interpretation of consent and how to protect the clients has now become a big issue across the health and social service sector.

As an example, one of the agencies, has set out their policy on data protection and have developed a consent form. This agency views the consent given by parents as allowing access by all team members to the data stored. Tiered protected access is facilitated only in extremely limited circumstances. Social workers have grave reservations on inputting their information with such open access as family's sensitive information will be there for all to read one a period of years or as long as they receive services from that agency/service provider, which may be a lifetime.

The seeking of informed consent is not always straightforward. Families applying to receive a service are vulnerable and overwhelmed by a diagnosis. However they are anxious to receive a service and will quite willingly sign a consent form at the outset, not fully understanding the significance of what they are signing and taking all aspects of that consent on board. At that early stage, the area of what is sensitive information may not yet have surfaced and they may not view this distinction as relevant to them.

Guidance on compliance with the legislation, yet respecting and protecting such personal data from open readership, is now required. Even though the above is just one example, this issue is relevant to all health and social service providers.

**The following clarification is required:**

- What is informed consent? Is it appropriate to get consent of prospective service users when they are under pressure or when they are not in a position to appreciate that they may need such privacy at a later stage?
- Should the consent that is sought at the outset respect people's right to privacy on what is personal information being shared with their social worker. In other words, is it acceptable for people to be asked to sign consent with a one fits all approach?
- In circumstances where a child is the agency's service user can it be expected that other family member's private information and not just the child's be shared with the whole team?
- Should agencies be expected to provide password controlled tiered access within multi-disciplinary teams?



### **Conclusion**

The IASW has already been contacted by a number of their members working in other agencies and is looking to set best practice guidelines in this area for the social work profession. The Health and Social Care Professionals Council (CORU) has recently established the social work Registration Board and in anticipation of the commencement of the registration of the social work profession in early 2011, they are working on their code of ethics and practice for social work and your guidance will be helpful to support them in that task. Note also that HIQA states in their draft standards that all service provider's aims should be to "maintain relevant professional standards" which is what the IASW aims to do in this area.

I hope that the issue has been presented with sufficient clarity. If further information is required, I can be contacted at the above address and phone number.

Thank you for your help with this matter,

Yours sincerely,

Ineke Durville  
President