

## DRAFT: Records and Information Group (RIG) Best Practice Guide

|   |   |
|---|---|
| Title: <b>Nottinghamshire Data Sharing Principles- Sharing for Non-Direct Care/Secondary Purposes</b>   |   |
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| References: As below  | IGA guidance note Options for Lawful Sharing<br><br>Mapping of commissioning activities to statutory functions/duties |
| <p><b>Scope:</b></p> <p>To provide a framework of options to support the processing of information across Nottinghamshire health and care providers and commissioners for non-direct patient care/secondary purposes. This can include examples such as service evaluation, audit, risk stratification, finance modelling, outcome tracking, planning and commissioning.</p> <p>Please note data used for research purposes is not included as this must go through the appropriate research governance and ethical approval process in which Information Governance compliance is considered.</p> <p><b><u>Meeting Legal Basis for Data Use</u></b></p> <p>This guidance sets out a number of options for each type of processing which will need to be assessed against the project or processing requirement and should be assessed against Data Protection compliance prior to proceeding. It is advised that a privacy impact assessment is completed to inform this process.</p> <p><b><u>Using Data for Limited Health and Social Care Purpose/s</u></b></p> <p>Although you may be able to meet the data protection requirements regarding fair and lawful processing and the duty of confidentiality it is all necessary to ensure patient health or care data is used for a limited and appropriate purpose. It is therefore advisable to identify that where data is used without explicit consent that it aligns with a statutory function of the organisation using the data for the required purpose. <b>Appendix 2</b> provides a defined list of key statutory functions for commissioning health and local authority (including Public Health).</p> <p>Any intended wider use beyond the organisations statutory functions must have Caldicott Guardian and SIRO approval from each of the organisations involved.</p> <p><b><u>Meeting other Data Protection and Security Requirements</u></b></p> <p>Data use and sharing must meet Information Governance toolkit standards, be supported by the appropriate contract or other information sharing agreement and wider standards of best practice.</p> <p><b><u>Case Examples</u></b></p> <p>Please see <b>Appendix 3</b> for some case examples.</p> |   |

| <b>Principles</b>   |   |
|---|---|
| <p>The table below identifies key processing activities for non-direct care/secondary purposes. These should be used in conjunction with meeting Data Protection and Caldicott principles and completion of a privacy impact assessment (where required) prior to a change in processing to ensure that all are considered.</p> |   |
| <b>Purpose</b>  | <b>Options for Data Use</b>   |
| Caseload matching, for purposes of planning and delivery  | <ul style="list-style-type: none"> <li>• Must be done with the explicit consent of the patients / service users concerned.</li> </ul>   |
| Risk stratification for case finding  | <ul style="list-style-type: none"> <li>• Consent implied where stratification is conducted on an organisation's own data as long as the processing is not excessive.</li> <li>• Explicit consent or other legal basis (s.251 Regulation) for multi-organisation data risk stratification but as long as the processing is not excessive.</li> <li>• Complex pseudonymisation at source.</li> <li>• Pseudonymisation on landing however if re-identification is likely then the required consent should be sought or access permitted by person with 'legitimate' patient relationship for purposes of direct care.</li> </ul> |
| Tracking outcomes across a pathway or different care settings   | <ul style="list-style-type: none"> <li>• Explicit consent.</li> <li>• Basic pseudonymisation at source if re-identification is not required.</li> <li>• Complex pseudonymisation at source.</li> <li>• Pseudonymisation on landing but if re-identification is likely then the required consent should be sought.</li> <li>• New s251 Regulations could provide a lawful basis subject to demonstrating to CAG that there are no reasonable practicable alternatives.</li> </ul>  |
| Developing capitated budgets and new care models  | <ul style="list-style-type: none"> <li>• Explicit consent.</li> <li>• Complex pseudonymisation at source.</li> <li>• Pseudonymisation on landing but if re-identification is likely then the required consent should be sought.</li> <li>• New s251 Regulations could provide a lawful basis subject to demonstrating to CAG that there are no reasonable practicable alternatives.</li> </ul>  |
| Understanding current and future population needs   | <ul style="list-style-type: none"> <li>• Explicit consent.</li> <li>• Anonymisation.</li> <li>• All types of pseudonymisation.</li> </ul>   |

### Risk Options Appraisal Table

| Purpose   | Consent - Implied | Consent - Explicit | True Anonymisation | Pseudonymisation at Source | Pseudonymisation at source with third party key management | Pseudonymisation on landing | Utilising stage 1 ASHs established under s251 | Bespoke support under s251 |
|---|-------------------|--------------------|--------------------|----------------------------|--|-----------------------------|---|----------------------------|
| Caseload matching, planning and delivery                      |                   |                    |                    | 3                          | 3  | 3                           |   |                            |
| Risk Stratification for case finding                          | 1                 | 2                  |                    |                            |  | 5                           |   |                            |
| Tracking Outcomes across a Pathway or different Care Settings |                   | 2                  |                    |                            |  | 5                           |   | 7                          |
| Developing Capitated Budgets and New Care Models              |                   |                    |                    | 4                          |  | 5                           | 6   | 7                          |
| Understanding Current and Future Population Needs             |                   | 2                  |                    |                            |  |                             | 6   |                            |

**1:** It is possible to imply consent where an individual is aware that information will be shared, that they have a right to have any concerns about this considered and they do not raise any such concerns (Opt Out). Clear communications needs to be provided to patients, **internal risk stratification only**.

**2:** Whilst explicit consent can provide a clear basis for using and sharing confidential personal information, it is also necessary to meet the other requirements of Data Protection law. Where anonymised or pseudonymised information would suffice then these should provide the basis rather than consent.

**3:** Pseudonymised data may support assessment of resource requirements and audit but not the actual coordinated and integrated care delivery.

**4:** Pseudonymisation at source supports record linkage but does not support the re-identification of individuals and requires a shared identifier (e.g. NHS Number). Consideration should be given to the quality of the data to enable accurate matching.

**5:** Pseudonymisation on landing requires compliance with Data Protection legislation and government policy regarding objections as data is transferred in the clear. Re-identification may be supported but where the body processing the data has access to the re-identified data confidentiality may be breached unless an additional legal basis e.g. explicit consent or s251 support have been obtained.

**6:** The existing S251 support for Commissioning arrangements cover broad commissioning and, separately, risk stratification for commissioning and invoice checking. The existing S251 for commissioning enables NHS Digital to pass a limited set of identifiable information (i.e. NHS number or postcode) to Stage 1 ASH environments for processing but there are a series of shortfalls:

**Exclusion of Primary Care data** – as indicated above the incorporation of Primary Care data is critical since it enables improved identification of morbidities. Future commissioning models are also seeing CCGs taking responsibility for the commissioning of primary care.



**Exclusion of Social Care data** – for the reasons indicated above, the S251 currently excludes the transfer of social care data.

**Application to Health only** – the S251 only enables the flow of data to Stage 1 ASH environments who are only permissible to be NHS organisations. Local Authorities therefore wishing to receive health information for integrated commissioning activity are restricted in what can be achieved. Alongside this many of the existing S251 applications made have been by NHS England for solely NHS purposes.

**Data release is restricted** - The existing S251 for risk stratification for commissioning includes Primary Care data and Acute (SUS) data on the basis that previous admissions to hospital are a key determinant of future admissions. This currently enables GPs to re-identify high risk patients through case finding. However, this S251 currently excludes additional datasets and is focussed on commissioning requirements at a population level, not case finding.

**7:** The Regulations that enable s251 support are limited in their scope and can only underpin activities which are encompassed by one or more of the following:

- the process of extracting and anonymising the information
- to link identifiable information obtained from more than one source
- for auditing, monitoring and analysing care and treatment

A different legal basis will be required to support activity that goes beyond these purposes. Also, support under s251 cannot be provided where there is a reasonably practicable alternative e.g. explicit consent, anonymisation or pseudonymisation.

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## Appendix One

### Definition of Options

| Option               |  | Features   |
|----------------------|--|--|
| Consent              | Implied  | Only for care purposes where there is no new or surprising elements  |
|                      | Explicit   | Resource intensive unless sought incrementally by care providers. Purposes other than care may have high levels of dissent                         |
| Anonymisation        | True Anonymisation   | Cannot support record linkage or re-identification   |
|                      | Pseudonymisation at source                                 | Cannot support re-identification, difficult to manage where data quality is poor or no shared identifier (e.g. NHS Number)                         |
|                      | Pseudonymisation at source with third party key management | Supports re-identification and potentially data quality checks but complex and likely to be expensive  |
|                      | Pseudonymisation on landing                                | Data transferred in clear so still subject to Data Protection law. Re-identification possible but if done will be subject to confidentiality law   |
| Statutory Provisions | Utilising stage 1 ASHs established under s251              | Limited purposes can be supported. Some data types excluded (e.g. social care). Viewed as interim only. Not currently available to all localities  |
|                      | Bespoke support under s251                                 | Time consuming to achieve. Can only support limited purposes. Viewed as interim only. CAG, who advise on applications can be demanding to satisfy. |

## Appendix 2: Mapping of Commissioning Activities to their Statutory Functions

### Commissioning activities that can be effectively undertaken using a common pseudonym

|           |  | Legal Basis  |  |   |
|-----------|--|--|--|---|
| Annex 2.1 | Activity   | NHS England  | CCG  | Local Authorities   |
| 2.1.1     | Patient Pathway Analysis   | <p>- <b>Duty</b> to exercise its functions ensuring that health services are provided in an integrated way where this would improve quality and outcome of services and reduce inequalities<br/> <b>NHS Act 2006, HSCA s13N and s23</b></p>      | <p>- <b>Duty</b> to promote integration<br/> <b>HSCA 2012 s26</b></p> <p>- <b>Duty</b> to ensure that organisations work together to improve outcomes for people<br/> <b>HSCA 2012</b></p> <p>- <b>Duty</b> to adhere to NHS continuing Healthcare - joint working with social services authorities<br/> <b>National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 reg22</b></p> | <p>- <b>Duty</b> to enable continuity of care when a person moves between local authorities<br/> <b>Care Act 2014 s37-38</b></p> <p>- <b>Duty</b> to carry out care and support functions with the aim of integrating services with those provided by the NHS or other health-related services<br/> <b>Care Act 2014 s3</b></p> <p>- <b>Duty</b> to co-operation between its functions other relevant authorities which have functions relevant to care and support<br/> <b>Care Act 2014 s6-7</b></p> <p>- <b>Duty</b> to encourage integrated working through Local Authority hosted Health and Wellbeing Boards (HWBs).</p> <p>- <b>Duty</b> for the responsible local authority to appoint a personal adviser for a former relevant child and to assess their needs and prepare a pathway plan.<br/> <b>Children Act 1989 s23CA</b></p> |
| 2.1.2     | Understanding the Needs of the Population                              |  | <p>- <b>Duty</b> that each CCG whilst carrying out its functions must have a regard to the need to reduce inequalities between patients with respect to their ability to access health services, and reduce inequalities between patients with respect to the outcomes achieved for them. In order to facilitate this, it is necessary to undertake geographical analysis based on postcode.<br/> <b>NHS Act 2006 s14T</b></p>                                 |   |
| 2.1.3     | Contract Challenge, Reconciliation and Identifying Service-Level Fraud | <p>- <b>Power</b> for NHS England to produce documents in connection with the exercise of counter fraud functions or security management functions in relation to the health service as required by the SoS.<br/> <b>NHS Act 2006 part10</b></p> | <p>- <b>Power</b> for CCGs to produce documents in connection with the exercise of counter fraud functions or security management functions in relation to the health service as required by the SoS.<br/> <b>NHS Act 2006 part10</b></p>  |   |
| 2.1.4     | Resident Patients Registered with GPs Cross Border (eg. Wales, NI)     |  | <p>- <b>Power</b> that a CCG has the ability, as a health service body, to enter into an NHS contract arrangement under which one health service body ("the commissioner") arranges for it to be provided by another health service body ("the provider").<br/> <b>NHS Act 2006 s9</b></p>   | <p>- <b>Duty</b> to establish an entitlement to public care and support for adults who need care<br/> <b>Care Act 2014 s18</b></p>  |
| 2.1.5     | Specialised Services and Other High Cost Low Volume Analysis           | <p>- <b>Duty</b> to provide certain specified services.<br/> <b>NHS Act 2006, HSC Act 2012 s5, sch1 S17</b></p>  | <p>- <b>Duty</b> to provide information<br/> <b>NHS Act 2006 sch1A para18</b></p>  | <p>- <b>Power</b> to make direct payments.</p> <p>- <b>Duty</b> to provide direct payments to people with capacity or an authorised person for adults who lack capacity when specified conditions are satisfied<br/> <b>Care Act 2014 s31-33</b></p>  |
| 2.1.6     | Policy Development and Service Evaluations                             | <p>- <b>Duty</b> to provide the information requested in the form and within the time period specified.<br/> <b>NHS Act 2012 para14</b></p>  | <p>- <b>Power</b> to be partnership organisations<br/> <b>Local Government Act 1972 sec113 (1A)</b></p> <p>- <b>Duty</b> to ensure that organisations work together to improve outcomes for people.<br/> <b>HSCA 2012</b></p>  | <p>- <b>Duty</b> that a local authority must comply with regulations regarding its public health function<br/> <b>Carers and Disabled Children Act 2000 s6C</b></p>   |

| Legal Basis |   |  |  |  |
|-------------|---|--|--|--|
| Annex 2.1   | Activity  | NHS England  | CCG  | Local Authorities  |
| 2.1.7       | Checking the Validity of Patient Identity and Commissioner Assignment | <p>- <b>Duty</b> to comply with the requirements of the Access to Health Records Act 1990.<br/><b>Access to Health Records Act 1990</b></p>  | <p>- <b>Guidance</b> to identify a person's ordinary residence for the purposes of providing care and support<br/><b>Care Act 2014 s39-41</b></p>  |  |
| 2.1.8       | Monitoring of Individual Funding Requests                             | <p>- <b>Secondary legislation</b> to fund therapies for Multiple Sclerosis - Standing rules.<br/><b>NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) 2013 part10</b></p> <p>- <b>Secondary legislation</b> to carry out financial duties of a relevant body in relation to administration.<br/><b>NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) 2013 part11</b></p> <p>- <b>Power</b> to carry out various powers relating to conditional inclusion in pharmaceutical lists, including variation of conditions and review if provided for in regulations.<br/><b>NHS Act 2005 s148</b></p> <p>- <b>Duty</b> to pay each CCG, for each financial year, the amount determined by NHS England to contribute to meeting the CCG's expenditure attributable to the performance by it of its functions in the relevant year.<br/><b>NHS Act 2006, HSCA 2012 s223G and s27</b></p> | <p>- <b>Duty</b> to provide information<br/><b>NHS Act 2006 schedule 1A para18</b></p> <p>- <b>Duty</b> to comply with requirements relating to Monitor's fund in special administration cases<br/><b>Health and Social Care Act 2012 s135</b></p> | <p>- <b>Duty</b> to provide direct payments to people with capacity or an authorised person for adults who lack capacity when specified conditions are satisfied<br/><b>Care Act 2014 s31-33</b></p> <p>- <b>Duty</b> that a local authority must comply with an order from the Secretary of State regarding pilot schemes for assisting persons with SEN or a learning disability assessment with direct payments<br/><b>Education Act 1996 s532B</b></p> <p>- <b>Duty:</b> this section applies where-(a) a personal budget for an adult specifies an amount which the local authority must pay towards the cost of meeting the needs to which the personal budget relates, and(b) the adult requests the local authority to meet some or all of those needs by making payments to the adult or a person nominated by the adult. If conditions 1 to 4 of section 31 are met, the local authority must, subject to regulations under section 33 make the payments to which the request relates to the adult or nominated person. A payment under this section is referred to as a direct payment<br/><b>Care Act 2014 s31 and s33</b></p> |

Commissioning activities that can be effectively undertaken using a common pseudonym, but where re-identification may be necessary to support follow-on direct care

|           |  | Legal Basis   |   |   |
|-----------|--|---|---|---|
| Annex 2.2 | Activity   | NHS England   | CCG   | Local Authorities   |
| 2.2.1     | Case Management for Specialised Mental Health Services | <p>- <b>Duty</b> to provide certain specified services.<br/><b>NHS Act 2006 s5, HSCA 2012 s17</b></p> <p>-To promote a comprehensive health service designed to secure the improvement in the physical and mental health of people in England and the prevention, diagnoses and treatment of illness.<br/><b>NHS Act 2006 s1</b></p> <p>- <b>Duty</b> to put and keep in place arrangements to monitor and improve the quality of health care.<br/><b>Health and Social Care (Community Health and Standards) Act 2003, s45 &amp; s148</b></p>  | <p>- <b>Duty</b> to provide notification of hospitals having arrangements for special cases<br/><b>Mental Health Act 1983, s140</b></p>   | <p>- <b>Duty</b> that a local social services authority shall make such arrangements as it considers reasonable to enable persons (independent mental health advocates) to be available to help qualifying patients.<br/><b>Mental Health Act 1983, s130A</b></p>   |
| 2.2.2     | Risk Stratification and Case Finding                   | <p>- <b>Duty</b> to promote the involvement of each patient, their carers and representatives in decisions relating to the prevention or diagnosis of illness or their care and treatment.<br/><b>NHS Act 2006, HSCA, s13H, s23</b></p>   | <p>- <b>Duty</b> to improve the quality of services.<br/><b>HSCA 2012, s26</b></p> <p>-To ensure quality in health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p>  | <p>- <b>Duty</b> to take appropriate steps for improving the health of people in its area (e.g. carrying out research into health improvement, providing information and advice; providing facilities for the prevention or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles and providing assistance to help individuals minimise risks to health arising from their accommodation or environment).<br/><b>NHS Act 2006, HSCA 2012, s12</b></p> |
| 2.2.3     | Multi-Agency Projects Across Health and Social Care    | <p>- <b>Duty</b> for NHS England to reduce inequalities.<br/><b>NHS Act 2006, HSCA, s13G, s23</b></p> <p>- <b>Duty:</b> for NHS England to have due regard to the need to eliminate discrimination, harassment and victimisation, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not and foster good relations between persons who share a relevant protected characteristic and persons who do not.<br/><b>Equalities Act 2010, s149, schedule 19, part 1</b></p> <p>- <b>Duty</b> to provide primary medical services in its area, to the extent it considers necessary.<br/><b>NHS Act 2006, s83(1)</b></p> <p>- <b>Duty</b> to comply with the requirements of the Data Protection Act 1998.<br/><b>Data Protection Act 1998</b></p> <p>- <b>Duty</b> to exercise its functions with a view to securing continuous improvement in the quality of services provided to individuals.<br/><b>NHS Act 2006, HSCA, s13E, s23</b></p> | <p>- <b>Duty</b> to improve the quality of services.<br/><b>HSCA 2012 s26</b></p> <p>- <b>Duty</b> to secure continuous improvement in the quality of primary medical services.<br/><b>HSCA 2012 s26</b></p> <p>- <b>Duty</b> for CCGs to reduce inequalities.<br/><b>HSCA 2012 s26</b></p> <p>- <b>Duty</b> to exercise its functions effectively, efficiently and economically.<br/><b>HSCA 2012 26</b></p> | <p>- <b>Duty</b> to take appropriate steps for improving the health of people in its area<br/><b>NHS Act 2006, HSCA 2012, s12</b></p>   |
| 2.2.4     | Implementing Integrated Care                           | <p>- <b>Duty</b> to exercise its functions ensuring that health services are provided in an integrated way where this would improve quality and outcome of services and reduce inequalities.<br/><b>NHS Act 2006, HSCA, s13N and s23</b></p>  | <p>- <b>Duty</b> to promote integration.<br/><b>HSCA 2012 s26</b></p>   | <p>- <b>Duty</b> to encourage integrated working through Local Authority hosted Health and Wellbeing Boards (HWBs).</p>   |



|           |                                | Legal Basis   |  |  |
|-----------|--------------------------------|---|--|--|
| Annex 2.2 | Activity                       | NHS England   | CCG  | Local Authorities  |
| 2.2.5     | Mental Health Packages of Care | <p>- <b>Duty</b> to provide primary medical services in its area, to the extent it considers necessary.<br/><b>NHS Act 2006, s83(1)</b></p>                                 | <p>- <b>Duty</b> to make arrangements for an assessment of the needs of a person relating to the provision of services in relation to the discharge of a patient from hospital<br/><b>Disabled Persons (Services, Consultation and Representation) Act 1986 s7</b></p> <p>- <b>Duty</b> to adhere to NHS Continuing Healthcare - assessment and provision<br/><b>National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012, Regulation 21</b></p> | <p>- <b>Duty</b> clarifies that after-care services provided under section 117 of the Mental Health Act 1983 are to meet a need arising from or related to the mental disorder of the person concerned<br/><b>Care Act 2014, s75, Sch4</b></p>   |
| 2.2.6     | Safeguarding                   | <p>- <b>Duty</b> to ensure that its functions are set out to have regard to the need to safeguard and promote the welfare of children.<br/><b>Children Act 2004 s11</b></p> | <p>- <b>Duty</b> to ensure that its functions are set out to have regard to the need to safeguard and promote the welfare of children.<br/><b>Children Act 2004 s11</b></p>  | <p>- <b>Duty</b> to set out a local authority's responsibility for adult safeguarding<br/><b>Care Act 2014 s42-47 sch2</b></p> <p>- <b>Duty</b> that a local authority must provide information to the Independent Safeguarding Board if requested to do so.<br/><b>Safeguarding Vulnerable Groups Act 2006 s40</b></p> <p>- <b>Duty</b> for a local authority looking after any child to safeguard and promote his welfare; and to make such use of services available for children cared for by their own parents as appears to the authority reasonable in his case.<br/><b>Children Act 1989 s22</b></p> |

Commissioning activities that can be effectively undertaken using a common pseudonym, but where re-identification may be necessary to support secondary uses

|           |  | Legal Basis  |   |   |
|-----------|--|--|---|---|
| Annex 2.3 | Activity   | NHS England  | CCG   | Local Authorities   |
| 2.3.1     | Reducing Health Inequalities                             | <p>- <b>Duty</b> for NHS England to reduce inequalities.<br/><b>NHS Act 2006, HSCA, s13G and s23</b></p> <p>- <b>Duty</b> to exercise its functions ensuring that health services are provided in an integrated way where this would improve quality and outcome of services and reduce inequalities.<br/><b>NHS Act 2006, HSCA, s13N and s23</b></p>  | <p>- <b>Duty</b> for CCGs to reduce inequalities.<br/><b>HSCA 2012 s26</b></p> <p>- <b>Duty</b> to adhere to the purposes of the Mayor of London's health inequalities strategy.<br/><b>Greater London Authority Act 1999 s309E</b></p> | <p>- <b>Duty</b> that a local authority must improve the well-being of and reduce inequalities between children in its area. In doing it must take action to meet the Secretary of State's targets and follow the Secretary of State's guidance.<br/><b>Childcare Act 2006, s1</b></p>  |
| 2.3.2     | Coding Audit   | <p>- <b>Duty</b> to put and keep in place arrangements to monitor and improve the quality of health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p> <p>- <b>Duty</b> to ensure that providers of healthcare services prepare and publish quality accounts<br/><b>Health Act 2009 s8</b></p> <p>- <b>Duty</b> to comply with the prescribed requirements and process in relation to disputes and enforcement<br/><b>NHS Act 2007 s122</b></p> | <p>- <b>Duty</b> to ensure quality in health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p> <p>- <b>Duty</b> to comply with Standing Rules<br/><b>HSCA 2012 s20</b></p>              | <p>- <b>Duty</b> that a local authority must comply with Regulations with regard to setting up and operating information databases containing required information about persons to whom arrangements under the Children Act 2004 relate<br/><b>Children Act 2004 s12</b></p> <p>- <b>Duty</b> that a local authority must prepare childcare assessments every three years and comply with the guidance of the Secretary of State when so doing<br/><b>Childcare Act 2006 s11</b></p> |
| 2.3.3     | Clinical Audit   | <p>- <b>Duty</b> to put and keep in place arrangements to monitor and improve the quality of health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p> <p>- <b>Duty</b> to ensure that providers of healthcare services prepare and publish quality accounts<br/><b>Health Act 2009 s8</b></p> <p>- <b>Duty</b> to comply with the prescribed requirements and process in relation to disputes and enforcement<br/><b>NHS Act 2007 s122</b></p> | <p>- <b>Duty</b> to ensure quality in health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p> <p>- <b>Duty</b> to comply with Standing Rules<br/><b>HSCA 2012 s20</b></p>              | <p>- <b>Duty</b> that a local authority must comply with Regulations with regard to setting up and operating information databases containing required information about persons to whom arrangements under the Children Act 2004 relate<br/><b>Children Act 2004 s12</b></p> <p>- <b>Duty</b> that a local authority must prepare childcare assessments every three years and comply with the guidance of the Secretary of State when so doing<br/><b>Childcare Act 2006 s11</b></p> |
| 2.3.4     | Collating Master Patient Index Outside HSCIC Environment |  | <p>- <b>Duty</b> to provide information<br/><b>NHS Act 2006 sch1A, para18</b></p>   |   |

## Commissioning activities that require ongoing use of PCD, until an alternative solution is identified

| Annex 2.4 | Activity   | Legal Basis  |   |   |
|-----------|--|--|---|---|
|           |  | NHS England  | CCG   | Local Authorities   |
| 2.4.1     | Authorisation of Payments  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to comply with SoS's directions relating to the payment of sums<br/><b>NHS Act 2006 s223B and HSCA 2012 s24</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to be responsible for payments to providers<br/><b>NHS Act 2006 s14Z7</b></li> <li>- <b>Duty</b> to pay medical practitioners in relation to examinations carried out under Part 2 of the Mental Health Act 1983<br/><b>HSCA 2012 s4</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> that a local authority must comply with regulations relating to the making of direct payments<br/><b>Health and Social Care Act 2001 s57</b></li> <li>- <b>Duty</b> that a local authority must comply with any directions issued with regard to deferred payment agreements relating to the provision of Part 3 accommodation<br/><b>Health and Social Care Act 2001 s55</b></li> <li>- <b>Duty</b> that a local authority must comply with an order from the Secretary of State regarding pilot schemes for assisting persons with SEN or a learning disability assessment with direct payments<br/><b>Education Act 1996 s532B</b></li> </ul> |
| 2.4.2     | General Invoice Validation   | <ul style="list-style-type: none"> <li>- <b>Duty</b> to comply with SoS's directions relating to the payment of sums<br/><b>NHS Act 2006, HSCA 2012 s223B and s24</b></li> </ul> | <ul style="list-style-type: none"> <li>- <b>Duty</b> to offer assistance or support for purchasing activities<br/><b>National Health Service (Procurement, Patient Choice and Competition) Regulations 2013 reg8</b></li> </ul>   | <ul style="list-style-type: none"> <li>- <b>Duty</b> to carry out a financial assessment if a local authority chooses to charge for a particular service under the power in section 14<br/><b>Care Act 2014 s17</b></li> <li>- <b>Duty</b> that a local authority must comply with regulations relating to the making of direct payments<br/><b>Health and Social Care Act 2001 s57</b></li> </ul>  |
| 2.4.3     | Invoice Validation of Any Qualified Provider (AQP) Activity                    | <ul style="list-style-type: none"> <li>- <b>Duty</b> to comply with SoS's directions relating to the payment of sums<br/><b>NHS Act 2006 s223B and HSCA 2012 s24</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to be responsible for payments to providers<br/><b>NHS Act 2006 s14Z7</b></li> <li>- <b>Duty</b> to make payments in respect of quality<br/><b>National Health Service (Clinical Commissioning Groups - Payments in Respect of Quality) Regulations 2013</b></li> <li>- <b>Duty</b> to offer assistance or support for purchasing activities<br/><b>National Health Service (Procurement, Patient Choice and Competition) Regulations 2013 reg8</b></li> </ul> | <ul style="list-style-type: none"> <li>- <b>Duty</b> to carry out a financial assessment if a local authority chooses to charge for a particular service under the power in section 14<br/><b>Care Act 2014 s17</b></li> <li>- <b>Duty</b> to provide direct payments to people with capacity or an authorised person for adults who lack capacity when specified conditions are satisfied<br/><b>Care Act 2014 s31-33</b></li> <li>- <b>Duty</b> that a local authority must comply with regulations relating to the making of direct payments<br/><b>Health and Social Care Act 2001 s57</b></li> </ul>   |
| 2.4.4     | Invoice Validation of Non-Contracted Activity                                  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to comply with SoS's directions relating to the payment of sums<br/><b>NHS Act 2006 s223B and HSCA 2012 s24</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to be responsible for payments to providers<br/><b>NHS Act 2006 s14Z7</b></li> <li>- <b>Duty</b> to make payments in respect of quality<br/><b>National Health Service (Clinical Commissioning Groups - Payments in Respect of Quality) Regulations 2013</b></li> <li>- <b>Duty</b> to offer assistance or support for purchasing activities<br/><b>National Health Service (Procurement, Patient Choice and Competition) Regulations 2013 reg8</b></li> </ul> | <ul style="list-style-type: none"> <li>- <b>Duty</b> to carry out a financial assessment if a local authority chooses to charge for a particular service under the power in section 14<br/><b>Care Act 2014 s17</b></li> <li>- <b>Duty</b> to provide direct payments to people with capacity or an authorised person for adults who lack capacity when specified conditions are satisfied<br/><b>Care Act 2014 s31-33</b></li> <li>- <b>Duty</b> that a local authority must comply with regulations relating to the making of direct payments<br/><b>Health and Social Care Act 2001 s57</b></li> </ul>   |
| 2.4.5     | Overseas Care to Support Reciprocal Agreements                                 | <ul style="list-style-type: none"> <li>- <b>Power</b> to request reimbursement for any pharmaceutical remuneration<br/><b>NHS Act 2006 s12A</b></li> </ul>                       | <ul style="list-style-type: none"> <li>- <b>Duty</b> to offer assistance or support for purchasing activities<br/><b>National Health Service (Procurement, Patient Choice and Competition) Regulations 2013 reg8</b></li> </ul>   |   |
| 2.4.6     | Resident English Patients Resident in Cross Border (e.g. in Scotland or Wales) |  | <ul style="list-style-type: none"> <li>- <b>Power</b> to be aware of performance of functions outside England<br/><b>NHS Act 2006 s6(1A)</b></li> </ul>   | <ul style="list-style-type: none"> <li>- <b>Duty</b> to establish an entitlement to public care and support for adults who need care<br/><b>Care Act 2014 s18</b></li> </ul>  |

|           |   | Legal Basis   |  |  |
|-----------|---|---|--|--|
| Annex 2.4 | Activity                                    | NHS England   | CCG  | Local Authorities  |
| 2.4.7     | Identification of Individual-Level Fraud    | <ul style="list-style-type: none"> <li>- <b>Duty</b> to process personal data in respect of which the data controller is a relevant authority and which consist of a classification applied to the data subject as part of a system of risk assessment which is operated by that authority for the prevention or detection of crime, or apprehension or prosecution of offenders, where the offence concerned involves any unlawful claim for any payment out of, or any unlawful application of, public funds<br/><b>Data Protection Act 1998, s29</b></li> <li>- <b>Power</b> for NHS England to produce documents in connection with the exercise of counter fraud functions or security management functions in relation to the health service as required by the SoS<br/><b>NHS Act 2006 part10</b></li> </ul> | <ul style="list-style-type: none"> <li>- <b>Duty</b> to process personal data in respect of which the data controller is a relevant authority and which consist of a classification applied to the data subject as part of a system of risk assessment which is operated by that authority for the prevention or detection of crime, or apprehension or prosecution of offenders, where the offence concerned involves any unlawful claim for any payment out of, or any unlawful application of, public funds<br/><b>Data Protection Act 1998, s29</b></li> <li>- <b>Power</b> for CCGs to produce documents in connection with the exercise of counter fraud functions or security management functions in relation to the health service as required by the SoS<br/><b>NHS Act 2006 part10</b></li> </ul> | <ul style="list-style-type: none"> <li>- <b>Duty</b> to process personal data in respect of which the data controller is a relevant authority and which consist of a classification applied to the data subject as part of a system of risk assessment which is operated by that authority for the prevention or detection of crime, or apprehension or prosecution of offenders, where the offence concerned involves any unlawful claim for any payment out of, or any unlawful application of, public funds<br/><b>Data Protection Act 1998, s29</b></li> </ul>   |
| 2.4.8     | Patient Transport                           | <ul style="list-style-type: none"> <li>- <b>Power</b> to make payments towards expenditure on community services<br/><b>NHS Act 2006 s256</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to make arrangements for an assessment of the needs of a person relating to the provision of services in relation to the discharge of a patient from hospital<br/><b>Disabled Persons (Services, Consultation and Representation) Act 1986 s7</b></li> <li>- <b>Duty</b> to provide after care of patients with mental health problems<br/><b>Mental Health Act 1983 s117</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to carry out needs assessments where an adult may have needs for care and support<br/><b>Care Act 2014 s9 and s11</b></li> <li>- <b>Duty</b> that a local authority must carry out the determination of a patients need for community care services in certain circumstance<br/><b>Community Care Services Delayed Discharges Act 2003 s4</b></li> </ul>  |
| 2.4.9     | Reimbursement of Travel Costs               | <ul style="list-style-type: none"> <li>- <b>Duty</b> to comply with regulations relating to patients' travelling expenses<br/><b>HSCA 2012 s181</b></li> </ul>  |  |  |
| 2.4.10    | Geographical Analysis Reliant on a Postcode | <ul style="list-style-type: none"> <li>- <b>Duty</b> to exercise its functions with a view to securing continuous improvement in the quality of services provided to individuals<br/><b>NHS Act 2006 s13E, HSCA s23</b></li> <li>- <b>Duty</b> to have regard to the likely impact of commissioning decisions on the provision of health services to persons in Wales or Scotland where they live close to the border with England<br/><b>NHS Act 2006 s1300, HSCA s23</b></li> <li>- <b>Duty</b> to make available information to patients about rights to receiving cross-border healthcare<br/><b>National Health Service (Cross-Border Healthcare) Regulations 2013</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> to ensure that organisations work together to improve outcomes for people<br/><b>HSCA 2012</b></li> <li>- <b>Duty</b> to promote research and the use of evidence obtained from research<br/><b>HSCA 2012 s26</b></li> <li>- <b>Duty</b> to ensure quality in health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and 148</b></li> </ul>  | <ul style="list-style-type: none"> <li>- <b>Duty</b> that a local authority must take steps it considers appropriate to improve the health of people living within its area<br/><b>National Health Service Act 2006 s2B</b></li> <li>- <b>Duty</b> to enable continuity of care when a person moves between local authorities<br/><b>Care Act 2014 s37-38</b></li> <li>- <b>Duty</b> to carry out needs assessments where an adult may have needs for care and support<br/><b>Care Act 2014 s9, 11 and 37-38</b></li> <li>- <b>Duty</b> to determine whether a person has eligible needs after a needs or carer's assessment<br/><b>Care Act 2014 s13</b></li> <li>- <b>Duty</b> to establish an entitlement to public care and support for adults who need care<br/><b>Care Act 2014 s18</b></li> </ul> |
| 2.4.11    | Medicine Management                         | <ul style="list-style-type: none"> <li>- <b>Duty</b> to promote a comprehensive health service designed to secure the improvement in the physical and mental health of people in England and the prevention, diagnoses and treatment of illness<br/><b>NHS Act 2006 s1</b></li> <li>- <b>Duty</b> to put and keep in place arrangements to monitor and improve the quality of health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></li> </ul>   | <ul style="list-style-type: none"> <li>- <b>Duty</b> to promote research and the use of evidence obtained from research<br/><b>HSCA 2012 s26</b></li> <li>- <b>Duty</b> to ensure quality in health care<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></li> <li>- <b>Duty</b> to co-operate in relation to public health functions<br/><b>NHS Act 2006 s247B</b></li> </ul>   | <ul style="list-style-type: none"> <li>- <b>Duty</b> to have regard to guidance from the Secretary of State when exercising their public health functions; in particular this requires local authorities to have regard to the Department of Health's Public Health Outcomes Framework (PHOF)<br/><b>HSCA 2012 s31</b></li> </ul>  |

| Legal Basis |                                  |  |  |   |
|-------------|----------------------------------|--|--|---|
| Annex 2.4   | Activity                         | NHS England  | CCG  | Local Authorities   |
|             |                                  |  | <ul style="list-style-type: none"> <li>- Duty to arrange for pharmaceutical services</li> </ul> <p><b>NHS Act 2006 s123</b></p>  |   |
| 2.4.12      | Monitoring Continuing Healthcare | <ul style="list-style-type: none"> <li>- Duty to act in line with the NHS Constitution as well as promote awareness of the NHS Constitution among patients, while ensuring the privacy, security and confidentiality of patient information</li> </ul> <p><b>NHS Act 2006 s13C</b></p> <ul style="list-style-type: none"> <li>- Duty to put and keep in place arrangements to monitor and improve the quality of health care.</li> </ul> <p><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p>   | <ul style="list-style-type: none"> <li>- Duty to adhere to NHS Continuing Healthcare - assessment and provision</li> </ul> <p><b>National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 reg21</b></p> <ul style="list-style-type: none"> <li>- Duty to adhere to NHS continuing Healthcare - joint working with social services authorities</li> </ul> <p><b>National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 reg22</b></p> <ul style="list-style-type: none"> <li>- Duty to ensure that organisations work together to improve outcomes for people</li> </ul> <p><b>HSCA 2012</b></p> | <ul style="list-style-type: none"> <li>- Duty to enable continuity of care when a person moves between local authorities</li> </ul> <p><b>Care Act 2014 s37-38</b></p>  |
| 2.4.13      | Emergency Preparedness           | <ul style="list-style-type: none"> <li>- Duty to deliver duty of care owed in emergency circumstances</li> </ul> <p><b>Corporate Manslaughter and Corporate Homicide Act 2007 s6</b></p> <ul style="list-style-type: none"> <li>- Duty to exercise its functions ensuring that health services are provided in an integrated way where this would improve quality and outcome of services and reduce inequalities</li> </ul> <p><b>NHS Act 2006 s13N and HSCA s23</b></p> <ul style="list-style-type: none"> <li>- Duty to put and keep in place arrangements to monitor and improve the quality of health care</li> </ul> <p><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p> | <ul style="list-style-type: none"> <li>- Duty for CCGs to take appropriate steps in an emergency</li> </ul> <p><b>NHS Act 2006 s252A and HSCA s46</b></p> <ul style="list-style-type: none"> <li>- To ensure that organisations work together to improve outcomes for people</li> </ul> <p><b>HSCA 2012</b></p> <ul style="list-style-type: none"> <li>- Duty to adhere to NHS continuing Healthcare - joint working with social services authorities</li> </ul> <p><b>National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 reg22</b></p>  | <ul style="list-style-type: none"> <li>- Duty for co-operation between its functions other relevant authorities which have functions relevant to care and support</li> </ul> <p><b>Care Act 2014 s6-7</b></p> <ul style="list-style-type: none"> <li>- Duty to enable continuity of care when a person moves between local authorities</li> </ul> <p><b>Care Act 2014 s37-38</b></p> <ul style="list-style-type: none"> <li>- Duty that a local authority must prepare and may modify a strategy for promoting economic, social and environmental well-being in its area, in accordance with the prescribed procedure</li> </ul> <p><b>Local Government Act 2000 s4</b></p> |

|           |  | Legal Basis  |   |   |
|-----------|--|--|---|---|
| Annex 2.4 | Activity   | NHS England  | CCG   | Local Authorities   |
| 2.4.14    | Complaints Management                              | <p>- <b>Duty</b> to comply with the prescribed requirements and process in relation to disputes and enforcement<br/><b>NHS Act 2007 s122</b></p> <p>- <b>Duty</b> to supply information on complaints investigations as requested by the Parliamentary and Health Service ombudsman<br/><b>Health Service Commissioners Act 1993</b></p> <p>- <b>Duty</b> to exercise its functions with a view to securing continuous improvement in the quality of services provided to individuals<br/><b>NHS Act 2006 s13E and HSCA s23</b></p>  | <p>- <b>Duty</b> to make arrangements regarding conflicts of interest and register of interests<br/><b>NHS Act 2006 s1A</b></p> <p>- <b>Duty</b> to manage conflicts between interests in purchasing health and care services and supplying such services<br/><b>National Health Service (Procurement, Patient Choice and Competition) Regulations 2013 reg6</b></p>  | <p>- <b>Duty</b> that every local authority shall establish a procedure for considering representations (including complaints) made to them by a relevant child; a person qualifying for advice and assistance; or certain others about the discharge of their functions to them<br/><b>Children Act 1989 s24D</b></p> <p>- <b>Duty</b> that every local authority shall establish a procedure for considering any representations (including any complaint) made to them by any child who is being looked after by them or who is not being looked after by them but is in need; a parent of his; any person who is not a parent of his but who has parental responsibility for him; any local authority foster parent; such other person as the authority consider has a sufficient interest in the child's welfare to warrant his representations being considered by them, about the discharge by the authority of any of their qualifying functions in relation to the child<br/><b>Children Act 1989 s26</b></p> <p>- <b>Duty</b> that a local authority must carry out a care assessment if requested to do so by a person with parental responsibility who is a carer of a disabled child<br/><b>Carers and Disabled Children Act 2000 s6</b></p> <p>- <b>Duty</b> that a local authority must carry out a care assessment if requested to do so by the carer of a disabled adult<br/><b>Carers and Disabled Children Act 2000 s1</b></p> |
| 2.4.15    | Supporting Prevent Agenda for Anti-Terrorism       | <p>- <b>Duty</b> that all specified authorities must comply with monitoring and enforcement and will be expected to maintain appropriate records to show compliance with their responsibilities and provide reports when requested</p> <p>- <b>Duty</b> to have due regard to the need to prevent people from being drawn into terrorism<br/><b>Counter-Terrorism and Security Act 2015 s26 and s29</b></p>  | <p>- <b>Duty</b> that all specified authorities must comply with monitoring and enforcement and will be expected to maintain appropriate records to show compliance with their responsibilities and provide reports when requested</p> <p>- <b>Duty</b> to have due regard to the need to prevent people from being drawn into terrorism<br/><b>Counter-Terrorism and Security Act 2015 s26 and s29</b></p>   | <p>- <b>Duty</b> that all specified authorities must comply with monitoring and enforcement and will be expected to maintain appropriate records to show compliance with their responsibilities and provide reports when requested</p> <p>- <b>Duty</b> to have due regard to the need to prevent people from being drawn into terrorism<br/><b>Counter-Terrorism and Security Act 2015 s26 and s29</b></p>   |
| 2.4.16    | Health Assessments (e.g. Specialised Equipment)    | <p>- <b>Duty</b> to put and keep in place arrangements to monitor and improve the quality of health care.<br/><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b></p>   | <p>- <b>Duty</b> to make arrangements for an assessment of the needs of a person relating to the provision of services in relation to the discharge of a patient from hospital<br/><b>Disabled Persons (Services, Consultation and Representation) Act 1986 s7</b></p> <p>- <b>Duty</b> to adhere to NHS Continuing Healthcare - assessment and provision<br/><b>National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 reg21</b></p> | <p>- <b>Duty</b> to provide or make arrangements to provide for health checks for eligible people and to provide information about dementia to older people<br/><b>Local Authorities (Public Health Functions and Entry to Premises by Local Healthwatch Representatives) Regulations 2013 (SI 2013/351) Part 2, regs 4 and 5</b></p>   |
| 2.4.17    | Capitated Budgets and Identification of New Models | <p>- <b>Secondary legislation duty</b> to arrange the provision of community dental services, services for armed forces and their families, services for prisoners and other detainees, specified services for rare conditions; and certain assessment, diagnostic, elective and minor elective care service.<br/><b>NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) 2012, Part 3</b></p> <p>- <b>Duty</b> to pay each CCG, for each financial year, the amount determined by NHS England to contribute to meeting the CCG's expenditure attributable to the performance by it of its functions in the relevant year</p> | <p>- <b>Duty</b> to follow financial duties of CCGs: expenditure<br/><b>NHS Act 2006 s223H</b></p> <p>- <b>Duty</b> to follow financial duties of CCGs: use of resources<br/><b>NHS Act 2006 s223I</b></p> <p>- <b>Duty</b> to follow financial duties of CCGs: additional controls on resource use<br/><b>NHS Act 2006 s223J</b></p>   | <p>- <b>Duty</b> to prepare a care and support plan following completion of a needs, carer's or financial assessment<br/><b>Care Act 2014 s24</b></p> <p>- <b>Guidance</b> defines a personal budget as a statement and sets out the financial information to be included<br/><b>Care Act 2014 s26</b></p> <p>- <b>Duty</b> to review how the capped cost system is operating every five years<br/><b>Care Act 2014 s71</b></p>   |

|           |  | Legal Basis   |   |   |
|-----------|--|---|---|---|
| Annex 2.4 | Activity   | NHS England   | CCG   | Local Authorities   |
|           |  | NHS Act 2006, HSCA 2012, s223G and s27  |   | - <b>Duty</b> to respond to cases of failure and work with CQC to assess and monitor the financial sustainability of certain providers<br><b>Care Act 2014 s53-57</b>   |
| 2.4.18    | Individual Level Budgets and Identification of Patient Cohorts | - <b>Duty</b> to put and keep in place arrangements to monitor and improve the quality of health care.<br><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b>  |   | - <b>Duty</b> to establish independent personal budgets for adults who have eligible needs and who choose not to have those needs met by the local authority<br><b>Care Act 2014 s28</b><br><br>- <b>Duty:</b> this section applies where-(a) a personal budget for an adult specifies an amount which the local authority must pay towards the cost of meeting the needs to which the personal budget relates, and(b) the adult requests the local authority to meet some or all of those needs by making payments to the adult or a person nominated by the adult. If conditions 1 to 4 of section 31 are met, the local authority must, subject to regulations under section 33 make the payments to which the request relates to the adult or nominated person. A payment under this section is referred to as a direct payment<br><b>Care Act 2014 s31 and s33</b><br><br>- <b>Duty</b> to comply with National Institute for Health and Care Excellence (NICE) recommendations to fund treatments under their public health functions.<br><b>HSCA 2012 s237</b> |
| 2.4.19    | Care Co-ordination, Prevention and Intervention                | - <b>Duty</b> to exercise its functions with a view to securing continuous improvement in the quality of services provided to individuals<br><b>NHS Act s13E, HSCA s23</b><br><br>- <b>Duty</b> to put and keep in place arrangements to monitor and improve the quality of health care<br><b>Health and Social Care (Community Health and Standards) Act 2003 s45 and s148</b> | - <b>Duty</b> to ensure that organisations work together to improve outcomes for people<br><b>HSCA 2012</b><br><br>- <b>Duty</b> to improve the quality of services<br><b>HSCA 2012 s26</b>   | - <b>Duty</b> to take appropriate steps for improving the health of people in its area (e.g. carrying out research into health improvement, providing information and advice; providing facilities for the prevention or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles and providing assistance to help individuals minimise risks to health arising from their accommodation or environment)<br><b>NHS Act 2006, HSCA 2012 s12</b><br><br>- <b>Duty</b> that a local authority must take steps it considers appropriate to improve the health of people living within its area<br><b>National Health Service Act 2006 s2B</b>  |
| 2.4.20    | Transforming Patient Care Programme                            |   | <b>Duty Sections 2 &amp; 3 Autism Act 2009</b><br><br>Local authorities and NHS bodies:<br><br>duty to act under guidance from the Secretary of State specific to autism.<br><br>Defines the duties of a CCG as a prescribed NHS body, to follow guidance issued by the Secretary of State specific to autism.<br><br>(Schedule 5, paragraph 171 of Health and Social Care Act 2012.) | <b>Duty Sections 2 &amp; 3 Autism Act 2009</b><br><br>Local authorities and NHS bodies:<br><br>duty to act under guidance from the Secretary of State specific to autism.<br><br>Defines the duties of a CCG as a prescribed NHS body, to follow guidance issued by the Secretary of State specific to autism.<br><br>(Schedule 5, paragraph 171 of Health and Social Care Act 2012.)   |

## Appendix 3: Case Examples

(please note these case examples are demonstrated at a very basic level for illustrative purposes and therefore any data sharing initiatives must fully considered with involvement of key project leads, IG leads, Caldicott Guardians and SIRO's).

### Case example 1

An acute hospital wants to complete an evaluation/review of patients' care and health intervention before the patient was admitted to hospital with sepsis, UTI or other infection. The project involves reviewing and matching patient identifiable information of a patient's involvement with primary care, community, ambulance and any other health care provider by a lead person within the hospital. The purpose of the project is to develop early indicators to avoid hospitalisation of patients with sepsis, UTI's or other infections and also to improve the care pathway for future patients. **This is caseload matching, for purposes of planning and delivery** and therefore explicit consent is required given the intended data being shared is identifiable, for non-direct care purposes and something the patient would not reasonably expect in consideration of the purpose.

### Case example 2

A project has been set up to look at outcomes across different care pathways in which one organisation has been identified as the lead. This will involve linking patient data to understand patient activity across different care providers. This is **tracking outcomes across a pathway or different care settings** and if any patient data is shared identifiable this can only be done by explicit consent. Nevertheless pseudonymisation techniques can be used to link patient data (by a pseudonym) so that non personal data can be shared and linked without breaching any privacy rules. In such circumstances a PIA and risk assessment should be completed and robust controls employed to mitigate any risk of patient re-identification.

### Case example 3

A number of CCG's in a local area have commissioned a project to understand future population needs and costs/budget implications. This will require the use of non-identifiable data from a number of different care provider organisations with no requirement to link different datasets. This is **understanding current and future population needs** and can be done without consent using aggregate level anonymised data.