

# HCPA Members Network Event

7<sup>th</sup> March 2018



What have HCPA  
been up to this  
year?



2017 - 2018



# TRAINING & WORKFORCE DEVELOPMENT



## **Mandatory Funding provided :**

✓ 1238 Courses

✓ **4928** Delegates trained

✓ HCPA processed £105,000 in claims to date

## ✓ **Open Courses:**

26 topics available across the year

**488** delegates trained to date

In partnership with Adult Care Services



# TRAINING & WORKFORCE DEVELOPMENT



## Short Qualifications :

- ✓ 4 topics available throughout the year
- ✓ **140** delegates trained to date



In partnership with Adult Care Services

## Workforce Development Funding :

- £160,000 of Skills for Care funding has helped to fund **280** learners to achieve Health & Social Care Qualifications



# TRAINING & WORKFORCE DEVELOPMENT

MEMBERS ONLY

## **SCILS – Social Care Information & Learning Services**

A training resource free for HCPA members giving you access to :–

137 Individual learning session topics

24 Group learning sessions

**1123** registered users in 2017/18 were accessing a wide range of social care training and development materials



# TRAINING & WORKFORCE DEVELOPMENT – MANAGEMENT COURSES

MEMBERS ONLY

## 262 learners have accessed the HCPA Leadership Suite in 2017-18

- Training Management
- Leading a Compassionate Care Service
- Leading & Recognising Excellence in Care
- Introduction to Care Leadership
- Leading a Workforce Coaching Strategy
- Proactively Raising Productivity through Performance Management



# Advanced Champion Training Pathways

HCPA Advanced Champion Pathways have gone from strength to strength and now include Champion pathways in:-

- Dementia
- Falls
- Nutrition
- Wound Management
- Safeguarding
- Engagement (Older People)
- Health
- Learning Disabilities (various focus)



**92 Champions plus their  
managers trained in 2017/18**



Champion  
Pathways

# Meeting with Adult Care Services

- We meet with Adult Care Services Directorate as a voice to discuss issues on behalf of the Private, Voluntary and Independent Care Sector in Hertfordshire

*Including:*

- ***Safeguarding***
- ***Hertfordshire Care Standards***
- ***Commissioning and Monitoring***
- ***ADASS East of England service outcomes***
- ***Creating a County Workforce Strategy***
- ***Addressing the CQC report in Hertfordshire***



# Meeting with CQC, Clinical Commissioning Groups and Sustainability and Transformation Plan (STPs) Groups

- HCPA meet quarterly with CQC to ensure regular updates
- HCPA attend a range of meeting with NHS, CCG and STP colleagues to develop further integration including
  - GP Locality Meetings
  - Falls Stakeholder Group
  - STP Frailty Group for Care Homes





The  
Hertfordshire  
Care  
Awards



Who will you nominate this year?

Nominations are open now

- A fantastic evening at Knebworth House!
- Celebrating excellent practice in the adult social care sector in Hertfordshire



# Increasing Best Value for Members



- ***HCPA have many new projects on the boil to help you get the best in quality and value for money services and products***
- ***We provide some of these ourselves in-house and within partnerships***
- ***New services have included the fully funded Recruitment Herts Good Care Recruitment, Community Engagement projects, free bed vacancy website service for residential services and Better Value Supplies and services for your business.***

# Members Evaluation



- We asked for your feedback about HCPA services:
- **97%** of you are very satisfied with your membership and think it offers value for money, good customer service and are satisfied with HCPA services
- **98%** of you are receiving regular communication that you feel is useful and easy and clear to read.
- **94%** of you agree that HCPA services support the organisations aim to raise the quality of care by sharing best practice



# We asked you what was the best thing about HCPA

You said:

- HCPA helps us to ensure staff have best training possible
- Supporting staff with training - and we see results when staff come back to the workplace. Takes some of the pressures away of getting staff trained. With HCPA I know it is a good level of training suited to meet all needs of a staffing group
- Networking with other providers - stronger together
- Support around any query when I need it
- Training - members forums - Champions - Impartial feedback service (that's four by the way!)
- The joint working they initiate between HCC, NHS, CQC



# What Next for 2018/19?

- Continue to seek further funding for both training and projects
- Launch the Academy model, helping individuals recognise their learning achievements
- Focus on manager forums and events
- Stop Falls Campaign

Watch out for our e-news for more information



**Welcome!**

# Agenda

- **HCPA - Introduction to GDPR**
- **Herts Valleys CCG - GDPR in Care**
- **Tea Break**
- **Peninsula - GDPR in HR**
- **HCC - Contract Requirements and HCC Changes**
- **Ridouts Solicitors - Data Breaches**
- **Lunch**
- **HCPA - LD Forum**
- **HCPA - AGM**

# Notices



- **HCPA Membership Year: 1<sup>st</sup> April 2018 to 31<sup>st</sup> March 2019**  
Renew membership now [www.hcpa.info/membership](http://www.hcpa.info/membership)
- **New! HCPA Training Calendar Launched:**  
Pick up your wall calendar and view training online:  
[www.hcpa.info/training](http://www.hcpa.info/training)
- **Hertfordshire Care Awards 2018 – nominations now open!**  
[www.hcpa.info/the-hertfordshire-care-awards](http://www.hcpa.info/the-hertfordshire-care-awards)

# Notices



- **Universal Credit: Impact on Service Users**  
Thursday 22<sup>nd</sup> March, 9.30am – 12pm
- **Universal Credit: Impact on Care Staff**  
Thursday 26<sup>th</sup> April, 9.30am – 12pm
- **Universal Credit: Impact on Care Staff Recruitment**  
Thursday 24<sup>th</sup> May, 9.30am – 12pm

## Coming soon...Fire Safety Study Days

2x Study Days will be running in Spring and Autumn

Visit [www.hcpa.info/events](http://www.hcpa.info/events) and keep an eye out for emails

# Notices



## **HCPA Professional Standards Academy**

Due to launch in September

Training passports embedded in the new Academy Model

Look out for upcoming emails and website updates for information

## **StopFalls Campaign and Pathways 2018**

– visit the HCPA stand

# Hertfordshire's Approach to Sleep-ins and National Minimum Wage



[www.hcpa.info/hcc/sleep-ins-national-minimum-wage-hertfordshire-approach](http://www.hcpa.info/hcc/sleep-ins-national-minimum-wage-hertfordshire-approach)

- HCC will contact providers who raised concerns about this issue and agree settlement
- NMW rate plus NI and pension contribution per sleep-in hour will be applied to all new services in Herts going forward (until a new Supported Living framework has agreed future prices and rates). ACS agreement for rates for all new services is still required.

**Contact:** Deputy Head of Service, Nadine Raenke  
via [Nadine.Raenke@hertfordshire.gov.uk](mailto:Nadine.Raenke@hertfordshire.gov.uk)

# Table Exercise:

How are you currently preparing for  
GDPR?

# Introduction to GDPR

Peter Bullen, HCPA

# 1998



# 1998

- Millennium Dome – construction begins
- DVD – A new format is released
- First general circulation of £2 coin
- All-Saints, Robbie Williams and Cher topped the pop charts
- Eurovision Song Contest held in Birmingham
- Data Protection Act (DPA)



**Today**



# Today's worries

COMPUTERWORLDUK FROM IDG Features Technology IT Business Events

Home > Features > Security Features

## NHS tops the list for serious data breaches last year

A ComputerworldUK investigation reveals the scope of serious data

## Exclusive: Health data breaches on the rise

BBC Sign in News Sport Weather iPlayer TV Radio

# NEWS

Home UK World Business Politics Tech Science Health Family & Education

Business Your Money Market Data Markets Companies Economy

## Carphone Warehouse fined £400,000 over data breach

10 January 2018

Share



# Time for an upgrade



# How much do you know about GDPR?

# 1. Which organisations does the GDPR affect?

- A. Those with more than 250 employees only
- B. Those involved with cold calling or online marketing only
- C. Both of the above
- D. Every business

**2. Brexit will not affect the enforceability of the GDPR?**

**TRUE**

or

**FALSE**

### 3. Which of the following are examples of special category data under the GDPR?

- A. Name and address
- B. Religious beliefs and genetic data
- C. Dietary requirements
- D. None of the above

## 4. Can a business charge for a Subject Access Request?

- A. No
- B. Up to £10
- C. Up to £50
- D. It is discretionary

## 5. Are there any financial penalties for a breach of GDPR?

- A. No
- B. Yes - financial penalties are remaining at the current level under the Data Protection Act 1998 of up to £500,000
- C. Yes - financial penalties of to up to €5,000,000 or 1% of global annual turnover – whichever is higher
- D. Yes - financial penalties of up to €20,000,000 or 4% of global annual turnover - whichever is higher

## 6. How long can an organisation keep the personal data of a prospective job applicant?

A. A maximum of 6 years

B. As long as they want

C. It depends

D. All unsuccessful applicants' data must be deleted immediately

## 7. Do all staff need to be aware and trained on GDPR?

- A. Only staff that deal with the organisation's compliance
- B. Only senior managers
- C. Yes
- D. No

**8. A clause in employment contracts which states that an organisation can collect and process staff data with their consent is enough?**

**TRUE**

**or**

**FALSE**

## 9. Does using a safe cloud provider fall within processing data?

- A. It depends on the agreement with the cloud provider
- B. Yes
- C. No
- D. Only if special category data is processed

**10. Which policy regulates how personal data is collected, processed and protected?**

- A. Privacy Policy
- B. Data Processing Agreement
- C. Data Protection Policy
- D. None of the above

# GDPR quiz

- How did you get on?
- Time to take action?
- **HCPA Members resource page**
- ICO website
- Networks / experts / colleagues

# GDPR in Care

Ruth Boughton, Herts Valleys CCG



# **GDPR (DATA PROTECTION ACT 2018)**

**Ruth Boughton  
Information Governance Manager**

## GDPR

## Preparing for the General Data Protection

## Regulation (GDPR) 12 steps to take now

1

**Awareness**

You should make sure that decision makers and key people in your organisation are aware that the law is changing to the GDPR. They need to appreciate the impact this is likely to have.

2

**Information you hold**

You should document what personal data you hold, where it came from and who you share it with. You may need to organise an information audit.

3

**Communicating privacy information**

You should review your current privacy notices and put a plan in place for making any necessary changes in time for GDPR implementation.

4

**Individuals' rights**

You should check your procedures to ensure they cover all the rights individuals have, including how you would delete personal data or provide data electronically and in a commonly used format.



5

**Subject access requests**

You should update your procedures and plan how you will handle requests within the new timescales and provide any additional information.

6

**Lawful basis for processing personal data**

You should identify the lawful basis for your processing activity in the GDPR, document it and update your privacy notice to explain it.

7

**Consent**

You should review how you seek, record and manage consent and whether you need to make any changes. Refresh existing consents now if they don't meet the GDPR standard.

8

**Children**

You should start thinking now about whether you need to put systems in place to verify individuals' ages and to obtain parental or guardian consent for any data processing activity.

9

**Data breaches**

You should make sure you have the right procedures in place to detect, report and investigate a personal data breach.

10

**Data Protection by Design and Data Protection Impact Assessments**

You should familiarise yourself now with the ICO's code of practice on Privacy Impact Assessments as well as the latest guidance from the Article 29 Working Party, and work out how and when to implement them in your organisation.

11

**Data Protection Officers**

You should designate someone to take responsibility for data protection compliance and assess where the role will sit within your organisation's structure and governance arrangements. You should consider whether you are required to formally designate a Data Protection Officer.

12

**International**

If your organisation operates in more than one EU member state (or you carry out cross-border processing), you should determine your lead data protection supervisory authority. Article 29 Working Party guidelines will help you do this.

## Individual Rights (4)

On the whole, the rights individuals will enjoy under the GDPR are the same as those under the DPA but with some significant enhancements.

The GDPR includes the following rights for individuals:

- the right to be informed;
- the right of access;
- the right to rectification;
- the right to erasure;
- the right to restrict processing;
- the right to data portability;
- the right to object; and
- the right not to be subject to automated decision-making including profiling.



# Individual Rights (4)

**The right to data portability is new.**

It only applies:

- to personal data an individual has provided to a controller;
- where the processing is based on the individual's consent or for the performance of a contract; and
- when processing is carried out by automated means.



## Lawful Basis for Processing (6)

For processing to be lawful under the GDPR, you need to identify a legal basis before you can process personal data. These are often referred to as the “conditions for processing” under the DPA.

It is important that you determine your legal basis for processing personal data and document this.

This becomes more of an issue under the GDPR because your legal basis for processing has an effect on individuals’ rights.

For example, if you rely on someone’s consent to process their data, they will generally have stronger rights, for example to have their data deleted.



## Lawful Basis for Sharing (6)

You will also have to explain your lawful basis for processing personal data in your privacy notice (fair processing notice) and when you answer a subject access request.

See GDPR

**Article 13** – where data is collected by the data subject

**Article 14** – where data is not obtained from the data subject

The lawful bases in the GDPR are broadly the same as the conditions for processing in the DPA.

It should be possible to review the types of processing activities you carry out and to identify your lawful basis for doing so.

You should document your lawful bases in order to help you comply with the GDPR's accountability requirement.



# Lawful Basis for Sharing (6)

## Conditions for Personal Data

**6(1)(a)** – Consent of the data subject

**6(1)(b)** – Processing is necessary for the performance of a contract with the data subject or to take steps to enter into a contract

**6(1)(c)** – Processing is necessary for compliance with a legal obligation

**6(1)(d)** – Processing is necessary to protect the vital interests of a data subject or another person

## Lawful Basis for Sharing (6)

**6(1)(e)** – Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller

**6(1)(f)** – Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, rights or freedoms of the data subject.

**Note that this condition is not available to processing carried out by public authorities in the performance of their tasks.**

# Lawful Basis for Sharing (6)

## Conditions for special categories of data

**9(2)(a)** – Explicit consent of the data subject, unless reliance on consent is prohibited by EU or Member State law

**9(2)(b)** – Processing is necessary for carrying out obligations under employment, social security or social protection law, or a collective agreement

**9(2)(c)** – Processing is necessary to protect the vital interests of a data subject or another individual where the data subject is physically or legally incapable of giving consent



## Lawful Basis for Sharing (6)

**9(2)(d)** – Processing carried out by a not-for-profit body with a political, philosophical, religious or trade union aim provided the processing relates only to members or former members (or those who have regular contact with it in connection with those purposes) and provided there is no disclosure to a third party without consent

**9(2)(e)** – Processing relates to personal data manifestly made public by the data subject



## Lawful Basis for Sharing (6)

**9(2)(f)** – Processing is necessary for the establishment, exercise or defence of legal claims or where courts are acting in their judicial capacity

**9(2)(g)** – Processing is necessary for reasons of substantial public interest on the basis of Union or Member State law which is proportionate to the aim pursued and which contains appropriate safeguards

**9(2)(h)** – Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of Union or Member State law or a contract with a health professional



## Lawful Basis for Sharing (6)

**9(2)(i)** – Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of healthcare and of medicinal products or medical devices

**9(2)(j)** – Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes in accordance with Article 89(1)

# Consent (7)

- Consent must be freely given, specific, informed and unambiguous.
- There must be a positive opt-in
- Consent cannot be inferred from silence, pre-ticked boxes or inactivity.
- It must also be separate from other terms and conditions

# Consent (7)

- Have to have simple ways for people to withdraw consent.
- Consent has to be verifiable and individuals generally have more rights where you rely on consent to process their data.
- You will still have to comply with the common law of confidentiality



## Consent (7)

- Consent is one lawful basis for processing, but there are alternatives. If consent is difficult, you should consider using an alternative basis.
- Consent is appropriate if you can offer people real choice and control over how you use their data, and want to build their trust and engagement. But if you cannot offer a genuine choice, consent is not appropriate.

## Consent (7)

- If you would still process the personal data without consent, asking for consent is misleading and inherently unfair.
- If you make 'consent' a precondition of a service, consent is unlikely to be the most appropriate lawful basis.
- Public authorities, employers and other organisations in a position of power over individuals should avoid relying on consent.



# Consent (7)

## Article 7 – Conditions for Consent

1. Where processing is based on consent, the controller shall be able to demonstrate that the data subject has consented to processing of his or her personal data.
2. If the data subject's consent is given in the context of a written declaration which also concerns other matters, the request for consent shall be presented in a manner which is clearly distinguishable from the other matters, in an intelligible and easily accessible form, using clear and plain language. Any part of such a declaration which constitutes an infringement of this Regulation shall not be binding.

## Consent (7)

**3.**The data subject shall have the right to withdraw his or her consent at any time. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal. Prior to giving consent, the data subject shall be informed thereof. It shall be as easy to withdraw as to give consent.

**4.**When assessing whether consent is freely given, utmost account shall be taken of whether, *inter alia*, the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary for the performance of that contract.

# Moving Forward

- Complete a comprehensive Asset/Data flow Mapping audit
- Identify what legal basis is being used to process and share data
- Review and update Fair Processing Notice to ensure compliance with GDPR
- Review and update patient leaflets etc.
- Use the guidelines that are available on the ICO Website
- Ensure you document and justify why you are using a legal basis



# Low Pay Commission

David Ashworth, HCPA Chairman

Email [alliance@hcpa.info](mailto:alliance@hcpa.info)  
with your feedback

# **Provider Costs Survey**

## **Impact of the Living Wage Increase**

In April the Living Wage will increase from £7.50 to £7.83 an increase of 4.4%

### **1. What impact will this have on your payroll:-**

- No impact (I am not guided by the NLW)
- Partial impact
- Full impact, my pay structure and pay differentials will all have to increase by the same / similar rate

### **2. How much have your pay costs increased in the last year as a percentage?**

### **3. What is the percentage of your payroll to total revenue?**

**The Living Wage Consultation is due to commence for the period 2019 – 20. HCPA would like to respond with members opinions.**

4. Do you consider the increase in living wage to £7.83/hr fair or appropriate despite the lack of funding support from Health and Social Care?

5. Would you support a similar percentage increase in 2019 /20 which is currently the intention of the LPC or

6. Would you support a proposal to let the Care Market decide to the going rate with only nominal increase in NLW

# Pensions Contributions

7. What is your current employee uptake of the Pension?

8. What will the uptake be following the increase in Employee contribution in April?

Email [alliance@hcpa.info](mailto:alliance@hcpa.info) with your feedback

# Tea Break

If you have GDPR questions please write them on a post-it at the HCPA stand

# GDPR and HR

Joseph Gill, Peninsula



**PENINSULA**

# **GDPR and HR**

Joseph Gill

Senior HRFace2Face Consultant

7 March 2018

# Who Are We?

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Premium on-site service, providing support with a wide variety of cases including:

- Grievances
- HR Investigations
- Capability Reviews
- Redundancies & Restructures
- Disciplinary Hearings
- Appeals
- Mediation
- Training



# What is Data?

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## Personal Data

Any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier.

## Sensitive Personal Data

- racial or ethnic origin of the data subject,
- political opinions,
- religious/philosophical beliefs,
- trade union membership
- genetic or biometric,
- health,
- Sex life or sexual orientation

# What Rights do Individuals Have?

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1. Right to be informed
2. Right of access
3. Right of rectification
4. Right to erasure
5. Right to restrict processing
6. Right to data portability
7. Right to object
8. Rights in relation to automated decision making and profiling

# Right to Be Informed

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- Employers should provide a “privacy notice” to employees.
- This will give the employee information on exactly what data will be processed and for what reasons, if it will be shared and (if so) with whom.
- It must be concise, transparent, intelligible and easily accessible.
- It must be written in clear and plain language.
- It must be provided free of charge.

# Right of Access

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- Free of charge.
- A reasonable fee can be requested in certain circumstances, for example a request is made for a second copy of that same data.
- Timescale to respond to a SAR under the GDPR. Can it be extended?
- If a request is excessive or repetitive, can refuse to respond.
- You must identify the person making the request by “reasonable means”.

# Three Simple Questions

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**WHAT....**

data have you got?

**WHERE....**

do you store this data  
and is it safe?

**WHY....**

are you holding data  
and using/sharing it?



# Employee Data

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WHAT sort of data have you got?

Think about:

- Job Applicants
- Employees
- Former Employees



# Employee Data & Consent

**Is consent needed**



## Sharing of Data

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- WHERE do you store this data
- Is it safe



## Storage of Data

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- WHY are you holding this data
- How are you using it
- Are you sharing it



## Sharing of Employee Data

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Which third party organisations might you share data relating to your employees with? Think about:

- Payroll
- Pension
- Taxation
- Employment Law Advice
- Regulatory Bodies
- Occupational Health
- PHI/PMI Providers

# Data Processing Agreements (“DPA”)

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- What is a DPA
- Is it something I need



## Data Retention

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How long can data be retained? Think about (for example) data such as:

- CVs for unsuccessful job applicants
- Copy of Passport
- Payroll records
- Contract of Employment
- P45
- Health/absence information

A man with glasses, wearing a dark suit, white shirt, and red tie, is seated at a table and speaking to a woman whose back is to the camera. She is wearing a green top. The man has a '100' badge on his lapel and is gesturing with his hands while holding a pen. The background is a bright, out-of-focus office setting.

## Final Thoughts

- Check your policies & documentation
- Are relevant staff aware of GDPR?
- Do you need any DPAs?
- Regularly check your data
- What if there is a breach?

#SuccessStartsHere

peninsula-uk.com

# Thank you

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# GDPR and HCC Contracts

Elaine Dunnicliffe, HCC

# GDPR: Contract requirements and HCC changes

Elaine Dunncliffe

Data Protection Officer, HCC

# GDPR compliance

- There must be a contract
- The contract must state details of the *processing*<sup>\*</sup>, and must set out the processor's obligations:
- the standards the processor must meet when processing personal data
- the permissions it needs from the controller in relation to the processing.

# Contracts must set out 1:

- **subject matter and duration of the processing; Provision of respite care; 3 years (data returned to controller at end of contract. If kept in legitimate interest e.g. contest claims - + 7 years legal liability)**
- **nature and purpose of the processing; Provide appropriate short stay respite care for elderly people in Herts with dementia.**

# Contracts must set out 2:

- **type of personal data and categories of data subject; name; address; date of birth; contact details for carer/next of kin**  
**Sensitive Personal data: medical conditions;**
- **the obligations and rights of the controller; Only act on written instruction; obliged to:**  
**report breaches within 72 hours where appropriate; produce a DPIA; co-operate with ICO; Issue Fair processing/privacy notices; ROPA**

# Contracts include as minimum, terms for processor:

- only act on the written instructions of DC;
- ensure that people processing the data are subject to a duty of confidence; **your staff**
- take appropriate measures to ensure the security of processing; **technical and organisational**
- only engage sub-processors with the prior consent of controller and under a written contract; **NB written consent; Ensure terms imposed on you are reflected in contracts with your sub-contractors.**

# Contracts include as minimum, terms for processor:

- **assist the controller in meeting its GDPR obligations in relation to security of processing, notification of personal data breaches and data protection impact assessments;**
- **delete or return all personal data to the controller as requested at the end of the contract;**
- **submit to audits and inspections; provide the controller with whatever information it needs to ensure that both are meeting Article 28 obligations; tell the controller immediately if asked to do something infringing the GDPR or other data protection law (EU member States)**

# Contracts include as minimum, terms for processor:

- submit to audits and inspections; provide controller with whatever information it needs to ensure that they are both meeting their Article 28 obligations, and tell the controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state.

# Contracts with Processors : HCC

- **New standard clauses in templates**
- **New schedule where Data processing takes place as part of service**
- **Change of law letter to existing contractors (in draft)**

# Questions?

## Thank you

[www.hertfordshire.gov.uk](http://www.hertfordshire.gov.uk)



# Data Breaches

Errol Archer, Ridouts Solicitors



# Data Breaches and Penalties in the Care Sector

Presented by

**Errol Archer**

7 March 2018

# Introduction

- 1 Current position under the Data Protection Act 1998
- 2 GDPR and the new Data Protection Bill
- 3 Examples of recent breaches and penalties
- 4 Penalties under GDPR and the new Act

# Enforcement under the DPA

- 1 Information notices
- 2 'Stop now' orders
- 3 Assessment Notices
- 4 Prosecute

# Data Breaches under the DPA

- 1 Police forces
- 2 The NHS
- 3 Universities
- 4 Local authorities
- 5 Blue chip companies
- 6 Government Ministers
- 7 QC's and barristers
- 8 Regulators

# Data Breaches under the DPA

- 1 Personal data being inadvertently disclosed as part of an FOI request (South Yorks Police)
- 2 Government Minister disposing of documents containing personal data in a public waste bin – Sir Oliver Letwin
- 3 QC lost a laptop with unencrypted sensitive personal data on it
- 4 Sensitive information about a child protection case emailed to the wrong person – Stoke on Trent Council
- 5 Insecure digital network platform – Sony Playstation, personal information of millions of customers

# Penalties for breaches of the GDPR

- Potential penalties were included in draft legislation deliberately by European Commission to:
  - prompt discussion and awareness of penalties
  - escalate significance of data protection to a board level concern
- Penalties will be imposed by the “supervisory authority” i.e. Information Commissioners Office

# Penalties for breaches of the GDPR

## Two-tier structure

- Most serious infringements:
  - 20 million euros or 4% worldwide turnover
- Less serious
  - 10 million euros or 2% worldwide turnover

# Penalties – overarching principles

The ICO must ensure each penalty is:

- Proportionate in all the circumstances (Recital 148)
- Effective, proportionate and dissuasive (Article 83(1))

# Penalties – overarching principles

- Nature, gravity and duration of infringement
- Intentional or negligent
- Any steps taken to mitigate damage
- Technical measures taken
- Did the organisation notify the ICO of infringement
- History of compliance

# Enforcement – Data Protection Bill

## Part 6 - Enforcement

- Clause 142 Information notices
- Clause 144 Assessment notices
- Clause 148 Enforcement notices
- Clause 154 Penalty notices

# Enforcement – Data Protection Bill

## Clause 156 Maximum Penalties

### Maximum Penalties

- Higher maximum amount  
(applies to breach of one of the three notices)
- Standard maximum amount

# Regulatory Action

- Guidance (clause 159) - ICO to produce and publish
- Rights of appeal (clause 161)

# Recent enforcement and penalties in the care and health sectors

- Marian Waddell, Royal Gwent Hospital  
13 November 2017
- Clair Francis, Dudley Group NHS Trust  
9 November 2017

# Recent enforcement and penalties in the care and health sectors

- Nicola Wren, Kent and Medway NHS and Social Care Partnership Trust  
16 October 2017
- Linda Reeves, The University Hospitals of North Midlands NHS Trust  
4 September 2017

## Recent enforcement and penalties in the care and health sectors

- Brioney Woolfe, Colchester Hospital  
University NHS Foundation Trust  
13 November 2017
- Sally Anne Day, Crickhowell Group Practice  
16 May 2017

# Recent enforcement and penalties in the care and health sectors

- Eileen McMillan, Portsmouth Hospital NHS Trust  
5 April 2017
- Elaine Lewis, Hywel Dda University Health Board  
3 March 2017

# Recent enforcement and penalties in the care and health sectors

- Whitehead Nursing Group  
25 August 2016
- HCA International Ltd  
28 February 2017
- Penine Care NHS Trust  
21 February 2017

# Data Protection Act 2018 and GDPR

- Future penalties?
- Areas to focus on
- Appeals
- Ensuring compliance



Any questions?

Errol Archer

Solicitor Advocate

Ridouts Professional Services PLC

[www.ridout-law.com](http://www.ridout-law.com)

T: 0207 317 0340

# Table Exercise:

What are you going to do differently?

# How much do you know about GDPR?

# 1. Which organisations does the GDPR affect?

- A. Those with more than 250 employees only
- B. Those involved with cold calling or online marketing only
- C. Both of the above
- D. Every business**

**2. Brexit will not affect the enforceability of the GDPR?**

**TRUE**

or

**FALSE**

### 3. Which of the following are examples of special category data under the GDPR?

- A. Name and address
- B. Religious beliefs and genetic data**
- C. Dietary requirements
- D. None of the above

## 4. Can a business charge for a Subject Access Request?

A. No

B. Up to £10

C. Up to £50

D. It is discretionary

## 5. Are there any financial penalties for a breach of GDPR?

- A. No
- B. Yes - financial penalties are remaining at the current level under the Data Protection Act 1998 of up to £500,000
- C. Yes - financial penalties of to up to €5,000,000 or 1% of global annual turnover – whichever is higher
- D. Yes - financial penalties of up to €20,000,000 or 4% of global annual turnover - whichever is higher**

## 6. How long can an organisation keep the personal data of a prospective job applicant?

A. A maximum of 6 years

B. As long as they want

**C. It depends**

D. All unsuccessful applicants' data must be deleted immediately

## 7. Do all staff need to be aware and trained on GDPR?

- A. Only staff that deal with the organisation's compliance
- B. Only senior managers
- C. Yes
- D. No

**8. A clause in employment contracts which states that an organisation can collect and process staff data with their consent is enough?**

**TRUE**

or

**FALSE**

## 9. Does using a safe cloud provider fall within processing data?

- A. It depends on the agreement with the cloud provider
- B. Yes**
- C. No
- D. Only if special category data is processed

**10. Which policy regulates how personal data is collected, processed and protected?**

- A. Privacy Policy**
- B. Data Processing Agreement**
- C. Data Protection Policy**
- D. None of the above**

# Learning Disability Support Provider Forum

After Lunch  
2pm - 3pm



# Agenda

**2.00 – 2.05 pm**

*Welcome and agenda*

HCPA

**2.05 – 2.20 pm**

*Overview of Commissioning Projects  
for LD Services*

HCC

**2.20 – 2.35 pm**

*Update on Day Services*

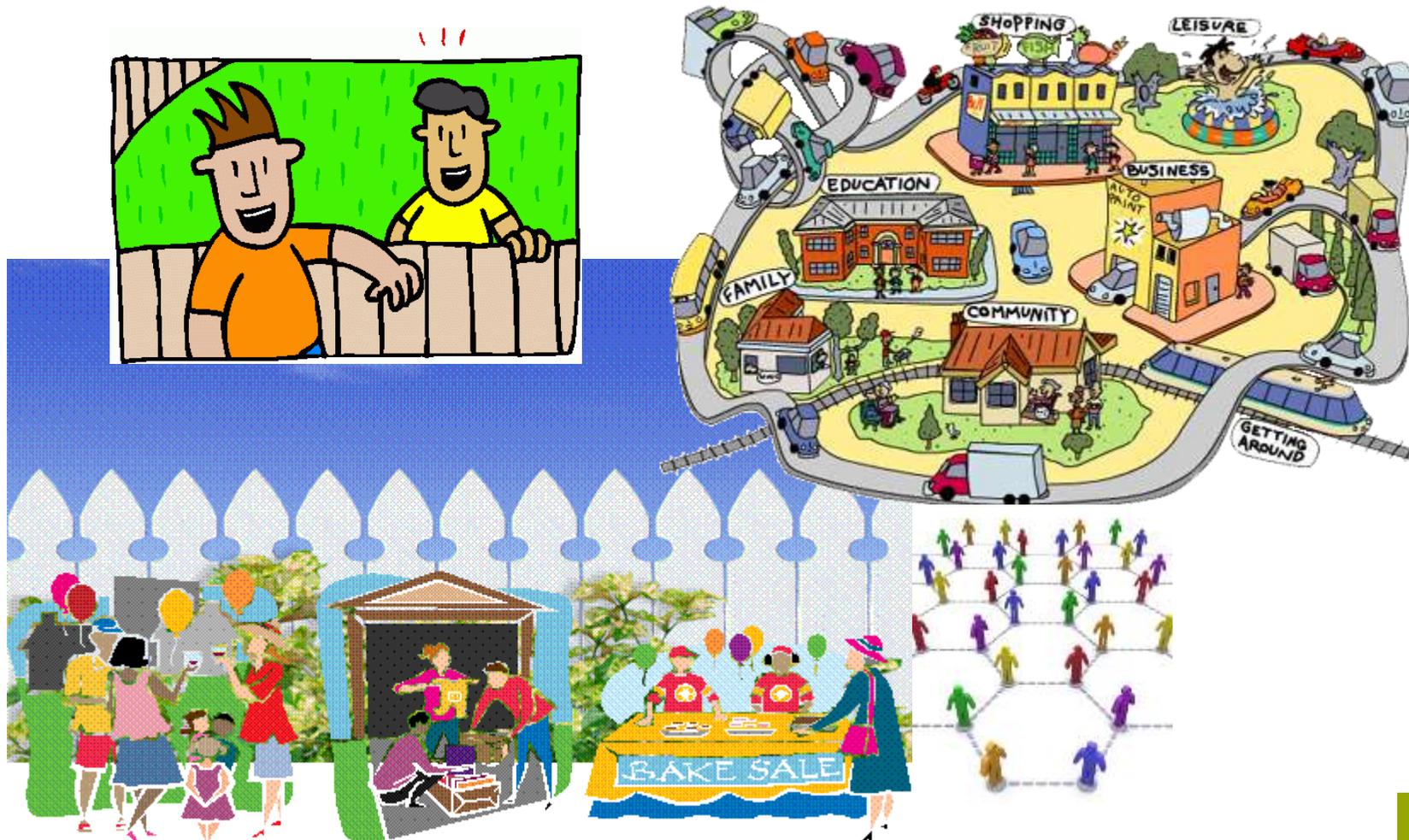
HCC

**2.35 – 3.00 pm**

*Action learning*

HCPA

# Learning Disability Forum Community Opportunity review



# What are we looking at?

Day centres

Activities

Outreach  
services

Befriending  
groups

Employment  
support

- Primarily spot contracts
- Starting with Learning disability services
- Does not include in-house day services

# Current Picture...

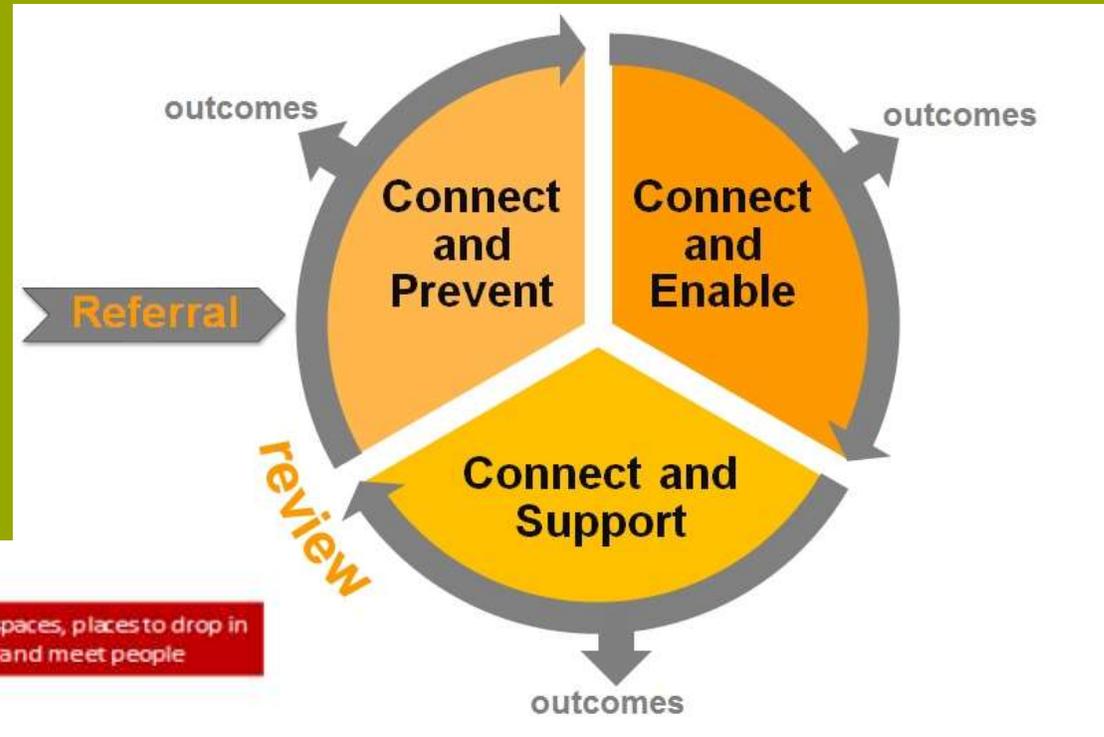
District	Spend on LD Community Opportunities
Broxbourne	£172,685
Dacorum	£5,379,343
East Herts	£5,387,612
East Herts - Stort	£595,103
Hertsmere	£1,143,021
North Herts	£14,499
St Albans	£1,811,611
Stevenage	£320,335
Three Rivers	£0
Watford	£1,726,090
Welwyn/Hatfield	£621,526
Multiple Areas / OOC	£5,434,484
<b>TOTAL</b>	<b>£22,606,309</b>

HCC spend with in house services across the county is around 40% of the overall day service spend

Supporting c.4,000 people & their carers

All figures are approximate and are based on commissioned services and exclude HCC in house provision

# Perspectives



# Issues to address

## Contracts

- Contracts end March 2019
- Existing contract outcomes do not align with Connected Lives
- No shared definition of needs

## Services

- Demands are increasing but budgets are not
- Young people choose to go out of county or take direct payments – not using commissioned services
- Lack of support for complex needs

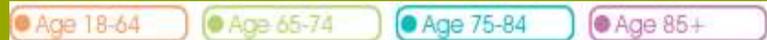
## Practice

- Unclear referral mechanism – services hard to find
- Dependency on services, complicated by lack of capacity to review individuals

# Future Demand...

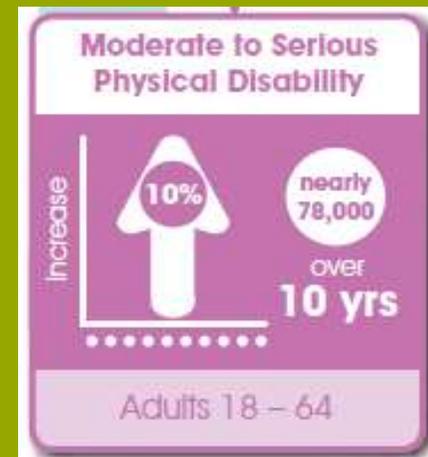
## Learning Disability

The number of people over 18 with a learning disability is predicted to increase by 9% by 2025



## Physical Disability

Current (estimated) number of adults within Hertfordshire aged 18-64 with a moderate or serious physical disability is 71,010.



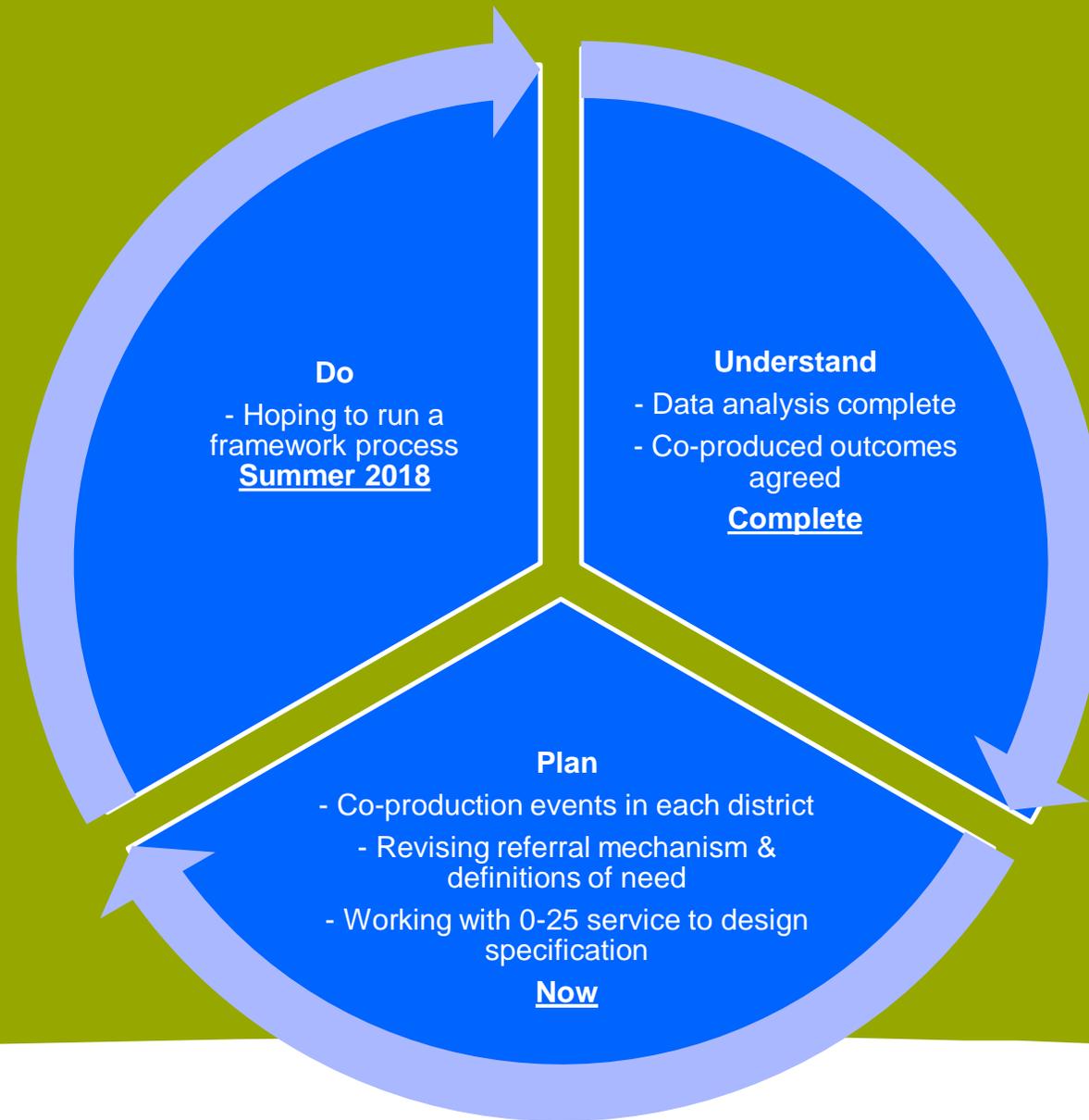
## Mental Health



## Older People

23% increase in over 65s over the next 10 years bringing total population to approx. 240,000

# Progress



Date	Time	Location/District	Venue	Postcode
14/03/2018	10:00am-12:00pm	Watford	Watford Lecture Hall, Watford Library, Hempstead Road, Watford	WD17 3EU
16/03/2018	10:00am-12:00pm	North Herts	Hitchin Quaker Meeting House, 1 Paynes Park, Hitchin	SG5 1EH
20/03/2018	1:00pm-3:00pm	Stevenage	Stoneyhall Community Centre, 29 Wornham Avenue, Stevenage	SG1 3UG
21/03/2018	10:00am-12:00pm	Dacorum	Hemel Hempstead Library, Coombe St, Hemel Hempstead	HP1 1DN
22/03/2018	10:00am-12:00pm	Broxbourne	Meeting Room Hoddesdon Library, 98A High Street, Hoddesdon	EN11 8HD
26/03/2018	1:00pm-3:00pm	Bishop's Stortford	Meeting Room Bishops Stortford Library, 6 The Causeway, Bishops Stortford	CM23 2EJ
29/03/2018	10:00am-12:00pm	St Albans	Fleetville Community Centre, Royal Rd, Saint Albans	AL1 4QL

- Invite sent to all providers
- Carers invited via Carers in Herts
- We would like more people with learning disabilities to attend
- Already held events in 3 Rivers, East Herts, Wel-Hat, Hertsmere

# Thank You

[www.hertfordshire.gov.uk](http://www.hertfordshire.gov.uk)



# Hertfordshire County Council

## Involvement in LD forum & Projects



## **LD forum involvement:**

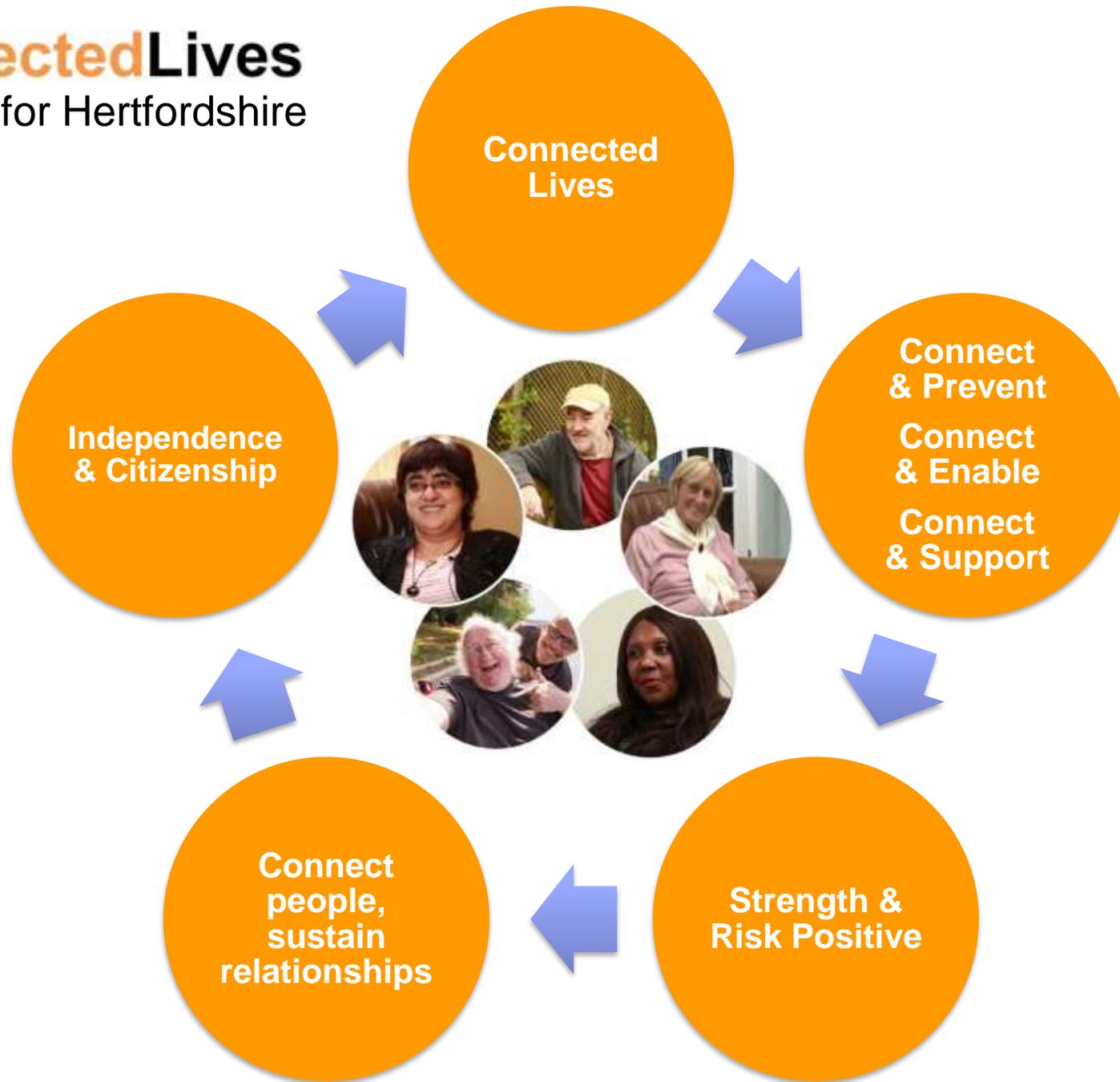
- Building relationships
- Updates on changes in HCC and team changes
- Increase engagement in planning of projects, gain feedback and ideas
- What information do you require to plan your business?
- One of LD forum on 24<sup>th</sup> April: Learning Disability strategy and Market Position Statements

## **Project overview:**

- Connected Lives
- Changing Services Together
- Supported Living procurement
- Accommodation Strategy
- Spot Accreditation
- Assistive Technology Strategy

# ConnectedLives

A model for Hertfordshire



# Connected Lives



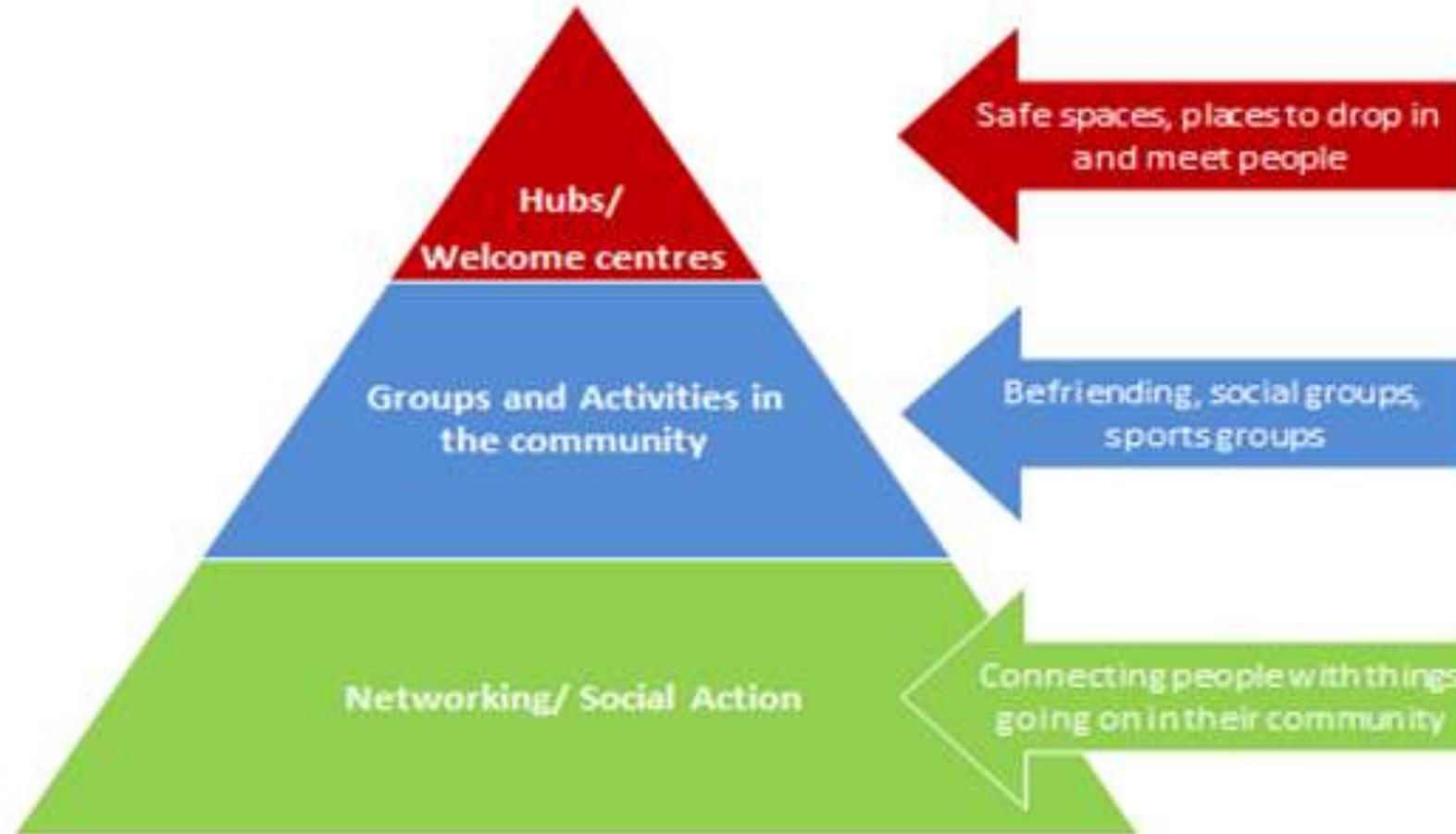
**ConnectedLives** principles will be embedded in commissioning, strategy, procurement and monitoring

Aspiration to deliver:

- Prevention
- Enablement
- Good care & support to deliver outcomes

# Changing Services together

In line with Community First strategy



# Supported Living transformation

## What we want to achieve

- Clear and consistent standards
- More enabling, flexible services that are focused on achieving outcomes; and a more responsive, innovative market
- More accommodation capacity and options



## How we intend to achieve this

- Engage with the market, service users, care managers and other stakeholders
- Set up a Framework Agreement for all future Supported Living services

## Timescales

- |   |                |
|---|----------------|
| • Plan, prepare, engage, develop requirements | Feb – Sep 2018 |
| • Launch Tender                               | October 2018   |
| • Award                                       | January 2019   |
| • New Framework goes live                     | 1 April 2019   |

# Supported Accommodation, a 10 year strategy

- Strategy to plan and provide sufficient accommodation for disabled and older people who need social care over the next 10 years.
- Agreed by Cabinet in July 2017, launched in November
- We need:
  - 500 additional units of housing for younger adults with disabilities, reduction in residential care placements for disabled adults.
  - 1,500 additional extra care housing units for older people
  - 1,000 additional nursing beds for older people
  - 600 additional residential beds for older people
- Engagement event in May with housing providers around new supported living arrangements, including the housing capacity



# Spot Accreditation

- Currently primarily for older people living in the community, complimenting Homecare lead provider offer
- Also used for supporting people with learning disability in the community
- Was launched end Jan/beg Feb 2018
- Phased approach (better manage financial and market impact)
- Started in St Albans (Tender closes 12 Mach)
- Existing and new providers invited to apply
- No packages outside the framework

# Assistive Technology Strategy

- Redefining how we prescribe and review support and care, rather than just another piece of kit
- Focused on achieving outcomes
- Tailored to individual needs
- Alongside other support
- Maximising abilities, maintaining independence
- Assessment, Delivery, Data collection
- Working together with University of Hertford

# How does it all link

Outcomes for people and enabling what they want:



# Action learning

**Ally Suchowierska**

Care Practice Manager, HCPA

# Revans' Law

*For an organisation to survive,  
its rate of learning must be at least equal  
to the rate of change  
in its external environment.*

# How it all began

*‘There can be no learning without action, and no action without learning’*



Reg Revans developed the **action learning** theory in the 1940s.

Recreating his early experiences of a scientific research laboratory where colleagues share and compare problems, ideas and solutions, Revans transferred these “action learning” techniques to management development programmes for the National Coal Board (the world’s largest employer at the time).

# Action learning concept

The process integrates:

- **research** (into what is obscure);
- **learning** (about what is unknown);
- and **action** (to resolve a problem)

into a single activity and develops an attitude of questioning and reflection to help individuals and organisations change themselves in a rapidly changing world.



# What is action learning?

1. Action Learning involves working on real problems, focusing on learning and actually implementing solutions. It is a form of learning by doing.
2. It provides a well-tried method of accelerating learning which enables people to handle complex issues more effectively.
3. A personal development tool which can be used to learn new ways of working, share experiences and help with problem solving
4. Consists of a group of 5-8 people who meet on a regular basis to discuss work-related issues or to develop skills in an area of common interest
5. Learning Sets give individuals time to explore issues that they need to resolve in an environment which is empowering and which helps the individual to find a solution – rather than be told what to do.

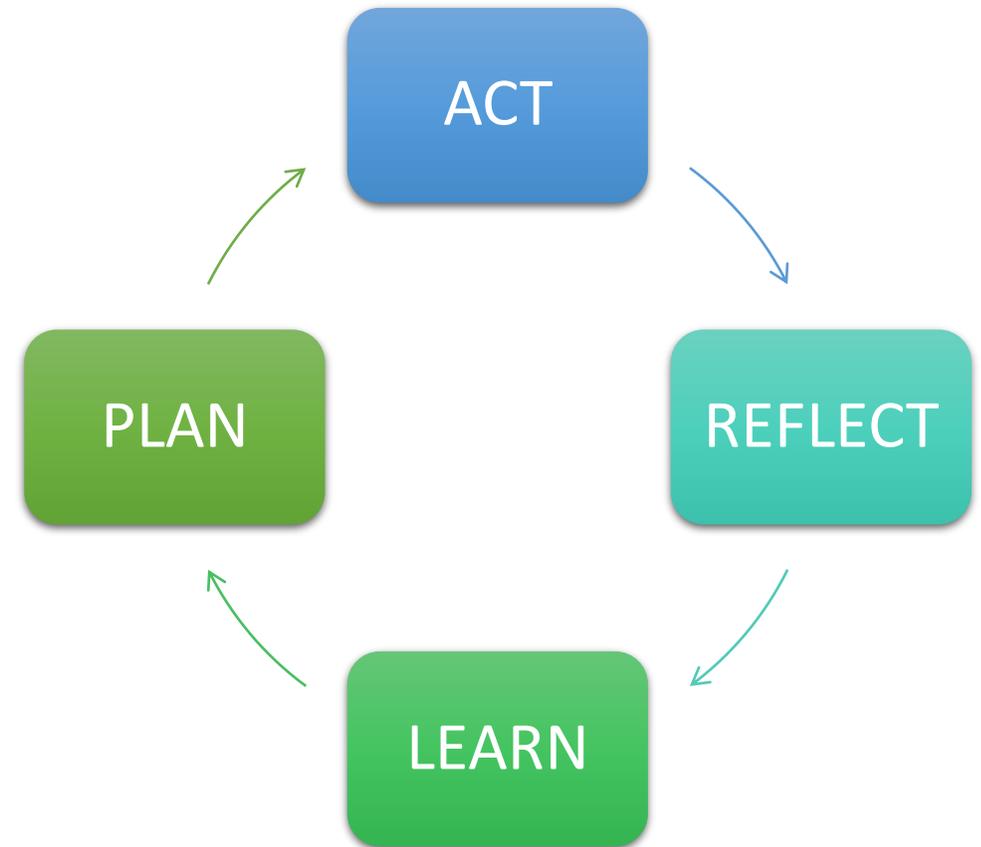
# What is action learning?

6. All members of the group also develop skills in listening, reflecting back what they have heard, demonstrating empathy, questioning to help the presenter to understand the issue more fully and providing feedback.
7. In a Learning Set participants are able to raise real life problems, difficult questions, discuss sensitive issues and share their learning in a supportive environment, secure in the knowledge that what they say remains confidential to the group.
8. A Learning Set can consist of colleagues from a single organisation or from different sectors and different professional backgrounds. The group is usually supported by a facilitator, though over time a group may become self-facilitating.

# Action learning uses

## Activity

In small groups brainstorm how you think you could use action learning in your setting?



# Action learning v traditional learning?

The process is different from traditional learning in that Set members:

- ✓ make a shared commitment to real action and change
- ✓ become mentors to each other – learning with and through each other
- ✓ are expected to ask questions, seek answers, gain support and expect challenge
- ✓ need to be positive and open-minded about issues/problems being discussed and possible solutions.
- ✓ work on real problems and implement solutions – i.e. development which is learning by doing
- ✓ all discussions are confidential to the group

# Benefits of action learning

- ✓ Having the opportunity to reflect
- ✓ Practising the postponement of judgement, providing an opportunity for new connections and answers to arise
- ✓ Receiving support and challenge in relation to specific issues
- ✓ Being held accountable for actions and their impact
- ✓ Setting goals, developing options and taking action that would not have been possible working on their own
- ✓ Learning to listen carefully, ask powerful questions and offer ideas, without telling others what to do
- ✓ Learning about group dynamics and how to contribute effectively within a group.



# Benefits of action learning

- ✓ Staff who can listen to, and work with, others
- ✓ People who take responsibility for their actions and the impact of those actions
- ✓ New perspectives on real issues – often leading to breakthroughs on long-standing issues
- ✓ Enhanced confidence to bring about change
- ✓ Greater self awareness
- ✓ A clearer understanding of how learning occurs
- ✓ Reduced stress



**Organisations  
benefit from**

# How does a learning set work?

## OPEN

**Open sessions** - individual members bid to discuss issues of concern. Members agree at the start of each meeting which bids will be successful and therefore discussed.

## PLANNED

**Planned sessions** - the topic is agreed in advance.

## COMBINED

**Combined approach** - the meeting is divided between 'planned' and 'open' sessions

# Summary

By **building confidence**, allowing individuals to air their issues and frustrations, **reflect on problems** and **question methods**, you can expect to achieve:

- ✓ A team that works together, shares learning and whose members support each other
- ✓ Greater recognition of skills in the team
- ✓ Motivation to work together to improve team performance
- ✓ Improved and faster project outcomes
- ✓ Team creativity and collaboration for resolving issues that had previously been seen as an individual's problems
- ✓ A stronger, more proactive contribution to the organisation's strategy



# Further guidance

We are currently developing a programme of action learning sets to be run in four different localities across Hertfordshire...



and look forward to telling you more soon!

# Tell us what you want!



Thank you for your participation