Forensic Readiness Policy

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| Author / Lead | David Triggs, Governance Lead |
| Responsible Executive Director | Director of Finance |
| Responsible Committee | Audit Committee |
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| Target Audience | * MSE ICB staff (including temporary/ bank/agency staff) * Contractors engaged by the MSE ICB Staff from other MSE ICS Partnership organisations working on behalf of the ICB |
| Stakeholders engaged in development of Policy (internal and external) | * Local Counter Fraud Specialist * CCG Audit Committees |
| Impact Assessments Undertaken | * Equality and Health Inequalities Impact Assessment |

**Version History:**

| Version | Date | Author (Name and Title) | Summary of amendments made |
| --- | --- | --- | --- |
| 0.1 | 08/02/22 | David Triggs, Governance Lead | Draft ICB Policy |
| 0.2 | 08/02/2022 | Viv Barnes and  Sara O’Connor  Governance Leads | Review of first draft |
| 1.0 | 12/08/2022 | Marion Barritt /  Sara O’Connor | Final review against policy checklist. |
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|  |  |  |  |
|  |  |  |  |

**CONTENTS**

1 Introduction 4

2 Purpose 4

3 Scope 5

4 Definitions 5

5 Roles and Responsibilities 5

5.1 Integrated Care Board 5

5.2 Audit Committee 5

5.3 Chief Executive 5

5.4 Senior Information Risk Officer (SIRO) 5

5.5 Head of Information Governance 6

5.6 Information Asset Owners (IAOs) 6

5.7 Line Managers 6

5.8 All Staff 6

5.9 MSE ICB IT Service Providers 7

6 Policy Detail 7

7 Monitoring Compliance 8

8 Staff Training 8

9 Arrangements for Review 8

10 Associated Policies, Guidance and Documents 8

11 References 8

12 Equality Impact Assessment 9

Appendix A - Equality Impact Assessment 10

# Introduction

## NHS organisations are required to have a Forensic Readiness Policy. The Mid and South Essex Integrated Care Board (MSE ICB) acknowledges the importance of forensic readiness and shall ensure it has appropriate processes and procedures in place to ensure a robust approach to forensic readiness at all times, this will:

* Maximise the potential use and benefits of forensic evidence.
* Reduce the potential costs associated with forensics investigations.

## Forensic investigation is a post event activity that is undertaken in response to an incident involving any form of evidence. There are many types of incident where the ability to gather and preserve evidence in a forensically sound manner will be of benefit to the organisation.

## Forensic Readiness is defined as:

*“The achievement of an appropriate level of capability by an organisation in order for it to be able to collect, preserve, protect and analyse digital evidence so that this evidence can be effectively used in any legal matters, in disciplinary matters, in an employment tribunal or court of law.”*

# Purpose

## The purpose of this policy is to:

* Protect the MSE ICB, its staff, information and partners through the availability of reliable evidence gathered from its systems and processes.
* Ensure a consistent and robust approach to forensic readiness which facilitates the rapid and cost-effective investigation of major events or incidents with minimum disruption to MSE ICB business processes.
* Ensure NHS requirements relating to security and confidentiality of equipment and information and the requirements of the Data Protection Act 2018 are met.
* Facilitate the pro-active and comprehensive planning, gathering and storage of evidence in advance of that evidence being required.
* Demonstrate due diligence and good governance of the MSE ICB’s information assets

## The MSE ICB commits to ensure robust processes are in place to facilitate forensic readiness in relation to all relevant information assets under its control and those which it utilises.

# Scope

## This policy applies to all MSE ICB staff (including temporary/ bank/agency staff), contractors engaged by the ICB and staff from other MSE ICS Partnership organisations working on behalf of the ICB.

# Definitions

* **Forensic Readiness** - the achievement of an appropriate level of capability by an organisation in order for it to be able to collect, preserve, protect and analyse evidence so that this evidence can be effectively used in any legal matters, in disciplinary matters, in an employment tribunal or court of law.
* **Digital Evidence** - information and data of value to an investigation that is stored on, received or transmitted by an electronic device.
* **Forensic Readiness Planning** - proactive planning for an investigation involving digital evidence through the identification of likely scenarios, sources of evidence, evidence collection processes and capabilities and resulting storage requirements and associated costs.

# Roles and Responsibilities

Integrated Care Board

### The MSE ICB Board is accountable and responsible for ensuring that the ICB has effective processes to enable a robust approach to forensic readiness at all times. The ICB Board is assured through the work of the Audit Committee.

Audit Committee

### This committee is responsible for the detailed oversight and scrutiny of the ICB’s systems and processes for forensic readiness.

Chief Executive

### The Chief Executive is responsible for implementation of and compliance with this Policy.

Senior Information Risk Officer (SIRO)

### The SIRO is responsible for:

* Coordinating the development and maintenance of IG forensic policy and related procedures and standards in liaison with the Head of Information Governance and Information Governance Steering Group.
* Ensuring appropriate review and maintenance is performed in relation to the forensic readiness plans produced by Information Asset Owners.

Head of Information Governance

* + 1. The Head of Information Governance shall be responsible for:
* Issuing guidance for implementing and compliance with this Policy.
* Monitoring performance through quality control and internal verification of compliance.
* Identifying where improvements could be made.
* Reporting performance standards to the SIRO and Information Governance Steering Group.
* Identifying likely business scenarios that may benefit from forensic evidence collation and ensure these are periodically reviewed.

Information Asset Owners (IAOs)

### MSE ICB IAOs are responsible, within the context of the information assets for which they are the designated ‘owners’, for ensuring that forensic readiness:

* Standards and requirements are applied.
* Planning is adequately considered and documented.

### IAO forensic readiness plans should consider:

* The ability to gather evidence without interfering with business processes.
* Prioritising evidence gathering to those processes that may significantly impact the MSE ICB, service users or its staff.
* Minimising business disruptions to the MSE ICB.
* Appropriate management of investigation costs and ensuring they are proportionate to the nature of the incident or event.
* Ensuring evidence makes a positive impact on the outcome of any investigation, dispute, or legal action.

### IAOs should produce forensic readiness plans and provide them to the Senior Information Risk Officer (SIRO), they will include:

* Details of any planning assumptions or external dependencies.
* Action plans with expected designated lead officers and completion dates if the forensic readiness of an asset is not robust.
* Dates when the forensic readiness plan has been tested.

Line Managers

### Line Managers are responsible for informing the Head of Information Governance of potential non-compliance with this policy.

All Staff

### Staff are responsible for reporting non-compliance with this policy to their Line Manager.

MSE ICB IT Service Providers

### The MSE ICB IT service providers will be responsible for ensuring compliance with this policy within the context of the information systems and services they are contracted to provide to the MSE ICB.

# Policy Detail

### The ICB Board acknowledge that the aim of forensic readiness is to provide a systematic, standardised and legal basis for the admissibility of evidence that may be required for formal dispute or legal processes.

### The ICB Board acknowledges that forensic readiness provides a means to help prevent and manage the impact of important business risks. Evidence from forensics processes can support a legal defence, it can verify and may show that due care was taken in a particular transaction or process and may be important for internal disciplinary actions. As such, the Board recognises that forensics readiness has two core objectives:

* Maximising the usefulness of incident evidence data.
* Minimising the cost of forensics during an incident response.

### The ICB Board will ensure that appropriate functionality is included within IT systems, and that procedures, specialist tools and staff are available to support the identification, collation and admissibility of forensic evidence, namely:

* Information from:
  + Event logs relating to user devices and IT infrastructure.
  + Key information assets and systems.
  + Procedures regarding:
  + Forensic acquisition and gathering of admissible evidence legally, whilst minimising the impact upon business processes.
  + Evidence handling.
  + Ensuring investigation costs are proportionate to the incident.
  + Ensuring that evidence makes a positive impact on the outcome of any legal action, in order to continue core business functions of all Business Stakeholders in the event of a major incident.
  + The production of play books which detail actions to be undertaken in common incident scenarios, therefore enhancing the efficiency of investigations that are likely to occur.

## The following steps will be undertaken as part of the forensic readiness planning process:

* + Identify available sources and different types of potential evidence.
  + Determine the evidence collection requirement.
  + Establish a capability for securely gathering legally admissible evidence to meet the requirements.
  + Establish a policy for secure storage and handling of potential evidence.
  + Ensure monitoring is targeted to detect and deter major incidents.
  + Specify circumstances when escalation to a full formal investigation (which may use the digital evidence) should be launched.
  + Train staff in incident awareness, so that all those involved understand their role in the forensic evidence process and the legal sensitivities of evidence.
  + Document an evidence-based case describing the incident and its impact.
  + Ensure legal review to facilitate action in response to the incident.

# Monitoring Compliance

## Incidents reported using MSE ICB incident reporting processes will be monitored by the Information Governance Steering Group and SIRO to identify breaches of and future enhancement in relation to this policy.

# Staff Training

## Training for this policy will be provided via the Information Governance Team and the provision of forensic readiness training to staff groups identified through the organisations Training Needs Analysis (TNA) exercise.

# Arrangements for Review

## This policy will be reviewed no less frequently than every two years. An earlier review will be carried out in the event of any relevant changes in legislation, national or local policy/guidance, organisational change or other circumstances which mean the policy needs to be reviewed.

## If only minor changes are required, the sponsoring Committee has authority to make these changes without referral to the Integrated Care Board. If more significant or substantial changes are required, the policy will need to be ratified by the relevant committee before final approval by the Integrated Care Board.

# Associated Policies, Guidance and Documents

[**Associated Policies**](https://www.midandsouthessex.ics.nhs.uk/publications/?publications_category=icb-policies)

* Information Security Policy
* Information Governance Policy

# References

* [NHS Forensic Readiness Good Practice Guide](file:///\\home\gary\Downloads\firefox.tmp\forensic_readiness_-_good_practice_guide_230517.pdf)

# Equality Impact Assessment

## The EIA has identified no equality issues with this policy.

## The EIA has been included as **Appendix A.**

# Appendix A - Equality Impact Assessment

**INITIAL INFORMATION**

|  |  |
| --- | --- |
| **Name of policy:** Forensic Readiness Policy    **Version number (if relevant):** 0.2 | **Directorate/Service**: Information Governance (Resources Directorate) |
| **Assessor’s Name and Job Title:**  David Triggs, Governance Lead | **Date:**  February 2022 |

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| **OUTCOMES** |
| *Briefly describe the aim of the policy and state the intended outcomes for staff* |
| The aim of this policy is to support the organisation and staff to:   * Protect the MSE ICB, its staff, information and partners through the availability of reliable evidence gathered from its systems and processes. * Ensure a consistent and robust approach to forensic readiness which facilitates the rapid and cost-effective investigation of major events or incidents with minimum disruption to MSE ICB business processes. * Ensure NHS requirements relating to security and confidentiality of equipment and information and the requirements of the Data Protection Act are met. * Facilitate the pro-active and comprehensive planning, gathering and storage of evidence in advance of that evidence being required. * Demonstrate due diligence and good governance of the MSEICB’s information assets |
| **EVIDENCE** |
| *What data / information have you used to assess how this policy might impact on protected groups?* |
| The ICB monitors the composition of its workforce under the nine protected equality characteristics and report on this annually. This information helps the ICB to assess the potential impact of its policies upon staff. |
| *Who have you consulted with to assess possible impact on protected groups? If you have not consulted other people, please explain why?* |
| The policy was developed in consultation with Governance Leads, the Information Governance Lead and the Local Counter Fraud Specialist prior to being reviewed by the Audit Committees in common. |

**ANALYSIS OF IMPACT ON EQUALITY**

The Public Sector Equality Duty requires us to **eliminate** discrimination, **advance** equality of opportunity and **foster** good relations with protected groups. Consider how this policy / service will achieve these aims.

N.B. In some cases it is legal to treat people differently (objective justification).

* ***Positive outcome*** *– the policy/service eliminates discrimination, advances equality of opportunity and fosters good relations with protected groups*
* ***Negative outcome*** *–**protected group(s) could be disadvantaged or discriminated against*
* ***Neutral outcome***  *–**there is no effect currently on protected groups*

Please tick to show if outcome is likely to be positive, negative or neutral. Consider direct and indirect discrimination, harassment and victimisation.

| Protected  Group | Positive  outcome | Negative  outcome | Neutral  outcome | Reason(s) for outcome |
| --- | --- | --- | --- | --- |
| Age |  |  | ✓ | No impact identified. |
| Disability  (Physical and Mental/Learning) |  |  | ✓ | No impact identified. The policy will be made available in alternative formats, such as easy read or large print and alternative languages upon request. |
| Religion or belief |  |  | ✓ | No impact identified. |
| Sex (Gender) |  |  | ✓ | No impact identified. |
| Sexual  Orientation |  |  | ✓ | No impact identified. |
| Transgender / Gender Reassignment |  |  | ✓ | No impact identified. |
| Race and ethnicity |  |  | ✓ | No impact identified. The policy will be made available in alternative formats, such as easy read or large print and alternative languages upon request. |
| Pregnancy and maternity (including breastfeeding mothers) |  |  | ✓ | No impact identified. |
| Marriage or Civil Partnership |  |  | ✓ | No impact identified |

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| **MONITORING OUTCOMES** |
| Monitoring is an ongoing process to check outcomes. It is different from a formal review which takes place at pre-agreed intervals. |
| *What methods will you use to monitor outcomes on protected groups?* |
| It is anticipated that any issues in respect of the impact of the policy upon protected staff groups will be identified via the HR Grievance Procedure. |

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| **REVIEW** |
| *How often will you review this policy / service?* |
| Every 2 years as a minimum and earlier if there are any significant changes in legislation, policy or good practice. |
| *If a review process is not in place, what plans do you have to establish one?* |
| N/A |