

# Privacy Notice – Direct Care and Administrative Purposes

**Summary:** All health and social care providers are subject to the statutory duty under section 251B of the Health and Social Care Act 2012 to share information about a patient for their direct care. This duty is subject to both the “Common Law Duty of Confidentiality”<sup>\*</sup> and UK Data Protection Legislation.

For common law purposes, sharing information for direct care is on the basis of implied consent, which may also cover administrative purposes where the patient has been informed or it is otherwise within their reasonable expectations.

When registering for NHS care, all patients who receive NHS care are registered on a national database, the database is held by NHS Digital; a national organisation which has legal responsibilities.

Health and social care professionals working with you – such as doctors, nurses, support workers, psychologists, occupational therapists, social workers and other staff involved in your care – keep records about your health and any care and treatment you receive. This may include:

- Basic details such as name, address, date of birth, phone number, mobile number email address - where you have provided it to enable us to communicate with you by email. The Trust operates a text appointment reminder service and you have the option to opt out either by speaking to a member of staff, or opting out when you receive an appointment reminder text.
- Your next of kin and contact details
- Notes and reports about your physical or mental health and any treatment, care or support you need and receive
- Results of your tests and diagnosis
- Relevant information from other professionals, relatives or those who care for you or know you well
- Any contacts you have with us such as home visits or outpatient appointments
- Information on medicines, side effects and allergies
- Patient experience feedback and treatment outcome information you provide

People who have access to your information will only normally have access to that which they need to fulfil their roles, for instance administrative staff will normally only see your name, address, contact details, appointment history and registration details in order to book appointments.

You have the right to object to our sharing your data in these circumstances but we have an overriding responsibility to do what is in your best interests. Please see below.

We are required by Articles in the General Data Protection Regulations to provide you with the information in the following 9 subsections.

1) <b>Data Controller</b> contact details	Southend University Hospital NHS Foundation Trust, Prittlewell Chase, Westcliff-on-Sea, Essex, SS0 0RY T: 01702 435555 ICO Registration number: Z1972899
2) <b>Data Protection Officer</b> contact details	Matt Barker, Group Head of Information Governance Basildon and Thurrock University Hospital NHS Foundation Trust, Nethermayne, Basildon, Essex, SS16 5NL Tel: 01268 524900 Email: <a href="mailto:informationgovernance@btuh.nhs.uk">informationgovernance@btuh.nhs.uk</a>
3) <b>Purpose</b> of the processing	Direct Care is care delivered to the individual alone, most of which is provided in the Trust. After a patient agrees to a referral for direct care elsewhere, such as a referral to a specialist in a hospital, necessary and relevant information about the patient, their circumstances and their problem will need to be shared with the other healthcare workers, such as specialist, therapists, technicians etc. The information that is shared is to enable the other healthcare workers to provide the most appropriate advice, investigations, treatments, therapies and or care.

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	<p>Processing of personal information will also include local administrative purposes such as:</p> <ul style="list-style-type: none"> <li>• waiting list management</li> <li>• performance against national targets</li> <li>• activity monitoring</li> <li>• local clinical audit</li> <li>• production of datasets to submit for commissioning purposes and national collections.</li> <li>• satisfy financial obligations</li> </ul>
4) <b>Lawful basis</b> for processing	<p>The processing of personal data in the delivery of direct care and for providers' administrative purposes in this surgery and in support of direct care elsewhere is supported under the following Article 6 and 9 conditions of the GDPR:</p> <p><b>Article 6(1)(e);</b> '<i>...necessary for the performance of a task carried out in the public interest or in the exercise of official authority...'</i>.</p> <p><b>Article 9(2)(h);</b> '<i>necessary for the purposes of preventative or occupational medicine for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services...'</i></p> <p>We will also recognise your rights established under UK case law collectively known as the "<i>Common Law Duty of Confidentiality</i>"*</p>
5) <b>Recipient or categories of recipients</b> of the processed data	<p>The data will be shared with Health and care professionals and support staff in this Trust and at hospitals, diagnostic and treatment centres who contribute to your personal care.</p>
6) <b>Rights to object</b>	<p>You have the right to object to some or all the information being processed under Article 21. Please contact the Data Controller. You should be aware that this is a right to raise an objection, that is not the same as having an absolute right to have your wishes granted in every circumstance.</p>
7) <b>Right to access and correct</b>	<p>You have the right to access the data that is being shared and have any inaccuracies corrected. There is no right to have accurate medical records deleted except when ordered by a court of Law.</p>
8) <b>Retention period</b>	<p>All records held by the NHS are subject to the Records Management Code of Practice for Health and Social Care Act 2016 (the Code). The Code sets out best practice guidance on how long we should keep your patient information before we are able to review and securely dispose of it.</p>
9) <b>Right to Complain.</b>	<p>You have the right to complain to the Information Commissioner's Office, you can use this link <a href="https://ico.org.uk/global/contact-us/">https://ico.org.uk/global/contact-us/</a></p> <p>Or call their helpline Tel: 0303 123 1113 (local rate) or 01625 545 745 (national rate)</p>

\* "*Common Law Duty of Confidentiality*", common law is not written out in one document like an Act of Parliament. It is a form of law based on previous court cases decided by judges; hence, it is also referred to as 'judge-made' or case law. The law is applied by reference to those previous cases, so common law is also said to be based on precedent.

The general position is that if information is given in circumstances where it is expected that a duty of confidence applies, that information cannot normally be disclosed without the information provider's consent.

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In practice, this means that all patient information, whether held on paper, computer, visually or audio recorded, or held in the memory of the professional, must not normally be disclosed without the consent of the patient. It is irrelevant how old the patient is or what the state of their mental health is; the duty still applies.

Three circumstances making disclosure of confidential information lawful are:

- Where the individual to whom the information relates has consented;
- Where disclosure is in the public interest; and
- Where there is a legal duty to do so, for example a court order.