Policy

Confidentiality of Personal Health Information

Key messages

- Staff must have the appropriate authority before sharing patient identifiable information
- Patients must consent to the sharing of their information for non healthcare purposes unless there is a legal or public interest reason for sharing without their consent
- Data sharing protocols must be in place for the routine sharing of information with non NHS organizations
- If patient is unable to consent to the sharing of their information the Trust must abide by the requirements of the Mental Capacity Act 2005

1 Scope

This policy applies to all Trust employees, including:

- staff who hold honorary contracts;
- contractors working on behalf of the Trust;
- the Board of Governors;
- Non Executive Directors.

2 Purpose

- to inform staff of the need and reasons for keeping information confidential;
- to inform staff what is expected of them;
- to protect the Trust as an employer and as a user of confidential information

3 Definitions

Duty of Confidentiality: A duty of confidentiality occurs when one person discloses information to another and there is an expectation that information will be held in confidence.

Health Record: Any record which consists of information relating to the physical or mental illness or condition of an individual and has been made by or on behalf of a health professional in connection with the care of that individual.

Health Professional: includes any of the following:

- Registered medical practitioner (includes any person who is provisionally registered under section 15 or 21 of the Medical Act 1983 and is engaged in such employment as is mentioned in subsection (3) of that section).
- Registered dentist as defined by section 53(1) of the Dentist Act 1984.
- Registered optician as defined by section 36(1) of the Opticians Act 1989.
- Registered pharmaceutical chemist as defined by section 24(1) of the Pharmacy Act 1954 or a registered person as defined by Article 2(2) of the Pharmacy (Northern Ireland) Order 1976.
- A registered nurse, midwife or health visitor.
- Registered osteopath as defined by section 43 of the Osteopaths Act 1993.
- Registered chiropractor as defined by section 43 of the Chiropractors Act 1994.
- Any person who is registered as a member of a profession to which the Professions Supplementary to Medicine Act 1960 for the time being extends.
- A clinical psychologist, child psychotherapist or speech therapist.
- A music therapist employed by a health service body.
- A scientist employed by such a body as head of department.

Direct care team
Health and social care professionals who provide direct care to the patients and others such as administration staff who directly support that care.
Definition from the GMC

Patient information: Includes information held in structured medical record on an electronic system and in paper format and patient identifiable information held separately on paper, in electronic systems such as video, audio, image or even by word of mouth. Electronic information includes information held on computer systems, servers, lap tops and mobile devices such as Personal Digital Assistant (PDA), USB memory sticks, CDROMS and mobile phones.

4 Introduction

This policy will apply to all confidential information recorded and held by the Trust.

The Trust places great emphasis on the need for the strictest confidentiality in respect of personal health information; this applies to paper, electronic information and staff conversations.

Everyone working for the NHS is under a legal duty to keep patient information confidential.

Patients entrust us with sensitive information relating to their health and other matters as part of seeking treatment. They do so in confidence and they have legitimate expectations that staff will respect their privacy and act appropriately. In some circumstances patients may lack the competence or

the severity of their illness may prevent them from extending this trust, but this does not diminish the duty of confidence. It is essential that the Trust provides a confidential service.

Staff are bound by the same rules of confidentiality while away from work as in work.

The Trust is required when handling personal health information to comply with the Data Protection Act 2018, Human Rights Act 1998, The National Health Service Act 2006, common law on Confidentiality, Computer Misuse Act 1990, NHS Code of Practice on Confidentiality, NHS Care Records Guarantee, NHS Information Security Code of Practice, Mental Capacity Act 2005, Caldicott Guidelines, guidelines issued by professional bodies such as the GMC, nursing and midwifery council and allied professionals, Information Governance Toolkit, the NHS Constitution and the Access to Health Records Act 1990 (in relation to deceased people).

5 Responsibilities

For a full description of information governance responsibilities please refer to the Information Governance and Information Security policy. This policy outlines specific responsibilities in relation to this policy

Board Responsibility: The Executive Director of Improvement & Transformation is responsible for raising issues arising from this policy to the Board of Directors.

Information governance lead: Nominated Data Protection Officer for the Trust and designated Caldicott Officer, responsible for renewing and maintaining adequate notification and providing advice and guidance to staff and the Caldicott Guardian.

Caldicott Guardian: is a medical post appointed by the medical director and is responsible for providing advice and guidance on the use of patient identifiable data, liaising with the Data Protection Officer and Information Governance Lead.

6 Uses of confidential information

Inform patients

Patients must be made aware that the information they give may be recorded, may be shared in order to provide them with care, and may be used to support clinical audit and other work to monitor the quality of care provided. Please refer to the Data Protection Policy for more guidance on informing patients about the uses of their information.

Essential uses of patient information

Essential in this context means those uses and disclosures without which treatment could not be given and those uses or disclosures which the law makes mandatory. Please note this list is not exhaustive.

1. Routine record keeping, consultation of records etc, in the course of provision of care and treatment
2. Processing of records in the event of a medical emergency
3. Disclosures made by one health professional or organisation to another, e.g. where a GP refers a patient to a specialist
4. Clinical audit e.g. the monitoring of a patient care pathway against existing standards and benchmarks
5. Statutory disclosures to disease registries or statutory disclosures for epidemiological research
6. Processing for administrative purposes e.g. disclosure in order to receive payment for treatment provided
7. Administrative audits, which may include studies designed to improve the efficiency of the NHS as an organisation or financial audit.

Points 1 to 4 above are classed as providing patients with their healthcare. Not all of these uses are obvious to a patient for example clinical audit. Patients understand that information needs to be shared between members of care teams and between different organisations involved in healthcare provision, but depending on the breadth of this disclosure extra effort may be required to inform patients of the importance and reason for sharing their information. This is particularly important where disclosures extend to non NHS bodies.

Other uses may not fall directly within the purpose of providing a patient with their healthcare but are essential for other reasons. Statutory disclosures are a legal requirement, patients should be informed but opting out of these disclosures is not possible.

For essential uses of their personal information patients will always be told for what purposes we use their information but would not be expected, without proving they will be caused substantial distress or damage, to opt out of the above uses of their information.

Non-essential uses of patient information
Non-essential uses are either for secondary medical purposes or for non-medical purposes. Please note this list is not exhaustive.

- Teaching
- Clinical trails
- Research
- Disclosures to social workers/social services departments
- Disclosures to hospital chaplains
- Disclosures to the media.

Patients have the right to object to the use or limit the use of their personal health data for purposes other than their immediate care, this right must be respected.

Teaching
The use of patient information for teaching purposes should be anonymised where possible. If patient identifiable information needs to be used in teaching then explicit consent is needed from the patient.

For further guidance on education and portfolios please refer to the Data Protection policy.

7 Consent

Information that can identify individual patients must not be used or disclosed for purposes other than healthcare without the individual's consent, some legal basis or where there is a robust public interest. Anonymised information is not confidential and may be used with relatively few constraints.

Consent is only valid if the patient has been informed and understands the purpose for which their information is used.

Once consent has been given, the consent will remain in place until the patient informs the Trust otherwise

Informed consent
Where the purpose is directly related to their healthcare, then provided the patient is suitably informed and does not object, consent to share information is classed as informed. If a patient does object, and there is no legal requirement, you will need to consider if it is in the public interest or the vital interests of the patient or anyone else affected to disclose information.

Explicit consent
Where the purpose is not directly related to the patients care and there is no legal requirement or public interest, staff must get explicit consent by informing the patient what is proposed and directly asking the patient to consent. Depending on the circumstances this would either be verbal or written consent and needs to be documented.

Legal requirement of parliament
A number of acts create a duty to disclose information. Where there is legal requirement consent is not required but if the patient could be caused harm, then the patient should be informed. If a Court order is received then information should be disclosed but only sufficient to answer the court order, please refer these requests to the Access to Health Records team. Further information is available at Appendix 1.

The National Health Service Act 2006
This act allows the temporary setting aside of the common law duty of confidentiality for the use and sharing of patient information for specific purposes, please contact the Data Protection Officer for further advice.

Public or vital interest
The sharing of information is permitted where there is no legal requirement or consent, if it is in the public interest or in the vital interests of an individual. Patients should still be informed if the patient would not be caused harm by informing them of the disclosure.

There are two elements to measuring public interest. How many people are affected and to what degree are they affected? The more people affected, the greater the public interest, but it is also the case that if a small number of people are severely affected (either positively or negatively), that too can be considered a substantial public interest.

The vital interests of an individual is defined to mean a situation where sharing information is critical to preventing harm or distress or it is literally a matter of life or death. Always consider what is in the best interests of the patient.

Children
Young people aged 16 or 17 are presumed to be competent for the purposes of consent to treatment and are therefore entitled to the same duty of confidentiality as adults. Children under the age of 16 who have the capacity and understanding to take decisions about their own treatment are also entitled to make decisions about the use and disclosure of information they have provided in confidence – 'Gillick competent child' also known as the Fraser guidelines (Gillick v West Norfolk and Wisbech Health Authority).

Any mentally 'competent' young person, including those under 16 years of age, may independently seek medical advice and give valid consent to medical treatment. The duty of confidentiality owed to a person under 16 is as great as that owed to any other person. Regardless of whether or not the requested treatment is given, the confidentiality of the consultation should still be respected unless there are convincing reasons to the contrary. Mental 'competency' is understood in terms of the patient's ability to understand the choices and their consequences, including the nature, purpose and possible risk of any treatment/non treatment.

In child protection cases the overriding principle is to secure the best interests of the child. Therefore, if a health professional (or other member of staff) has knowledge of abuse or neglect it may be necessary to share this with others on a strictly controlled basis so that decisions relating to the child's welfare can be taken in the light of all relevant information.

In other cases, consent should be sought from a person with parental responsibility if such a person is available. It is important to check that persons have proper authority (as parents or guardians). Ideally, there should be notes within the child's file as to any unusual arrangements. Under the Children's Act 1989 unmarried fathers do not automatically have parental responsibility for pre December 2003 births; parental responsibility can be obtained by the mother from a Court by obtaining a parental responsibility agreement. Mothers and fathers named on the birth certificate for post December 2003 birth have parental responsibility. Person with parental responsibility can consent to treatment or sharing of information even where a child objects. Under the Civil Partnership Act 2004 civil partners are able to apply for a parental responsibility agreement for their civil partner.

Deceased patients

The death of a patient does not absolve staff from the duty to observe confidentiality. Disclosures must be a matter for individual decision by the clinician. The following will also be relevant to the issue:

- the nature of the information to be disclosed;
- the extent to which that information may have been published elsewhere;
- the circumstances of the disclosure including the time that has elapsed since the patient's death.

Patients unable to give consent

Where the patient is incapacitated and unable to consent, information should only be disclosed in the patient's best interests, and then only as much information as is needed to support their care. Each situation must be judged on its merits, and great care taken to avoid breaching confidentiality or creating difficulties for the patient. Decisions to disclose and the justification for disclosing should be noted in the patient's records. Reference to the Mental Capacity Act 2005 should be made.

Confidentiality and copyright of medical photographs

Photographs of any part of the patient form part of the patient's medical records, therefore the same constraints with regard to confidentiality apply to photographs as they do to any other part of the patient's records.

The term 'photograph' includes audio-visual material obtained through laparoscopic procedures and prints from audio-visual tapes.

Doctors may be entitled to use photography for the purpose of diagnosis and treatment of a patient, with explicit consent.

The patient has the right to decline for any photograph to be used in anyway for teaching or research purposes.

The Trust holds the copyright of all photographs taken of its patients, no matter who creates them.

In any contract for publication the copyright in the photograph will remain with the Trust and not pass automatically to the publishers on first publication; otherwise the Trust might well find itself unable to protect the patients.

The Trust will keep an up to date record of all employees who take photographs in the course of their duties. Photographs must only be taken by staff registered to do so with the Director of Medical Illustration and using cameras approved for the purpose. Camera enabled mobile phones must not be used to photograph patients by staff or members of the public. Photographs must not be stored locally without specific consent and approval from the Media Studio.

Consent must be sought from the patient and should include:

- patient's consent for the original photography and for its use as a part of treatment or for local teaching;
- any future publications in journals or papers;
- that only necessary or authorised copies are made.

Medical photography request forms should be used in all cases of photography (whoever takes the photograph). This form includes a consent form which must be completed by the clinician concerned and signed by the patient. The top copy should be filed in the patient's notes, the 2nd copy is given to the patient, the third copy is sent to medical photography.

In the case of serial records of a single course of treatment (e.g. orthodontics) consent is only required on the first visit.

Further guidance is available in the Illustrative recordings of patients: Confidentiality, consent, copyright and storage

8 Access to/requests for confidential information

Trust staff are only allowed to view personal health data if they are involved in the patients care or have authority to perform the associated administrative procedures within your role, please refer to the Data Protection policy, section 6.

Access to and requests for confidential patient information must be justified, do not hesitate to ask why the information is required. When either accessing or sharing information, the rights of the patient must always be the basis of all disclosures. Ensure that you check the identity of the person asking for information whether it is the patient, member of staff or other professional but before releasing any information ensure that you have the authority to do so, please see below for further guidance.

There will be exceptional circumstances when it is necessary to breach the patient's confidentiality, always justify any decisions and ensure that it

meets the patient's best interests. Seek advice when appropriate and document the decision and circumstances.

Remember: if in doubt don't give information out, seek advice first.

Always comply with the safe haven procedures when sharing information, please refer to the Information governance & information security Policy for further guidance.

A clinician responsible for the patient's care may place an embargo or other restriction on the circulation of patient information without the patient's specific agreement. Such an embargo or restriction and the reason for this must be recorded in Epic as an alert.

Information sharing protocols

Prior to sharing routine information with non NHS organizations an information sharing protocol must be in place. This is a formal agreement between the organisations sharing personal data. It explains why the data is being shared and sets out the principles and commitments organisations will adopt when they collect, store and disclose personal information. The protocols also explain when data can be shared.

For further guidance please refer to information sharing code of practice guidance on Connect

Sharing of personal health information

- **For the sharing of personal health information for the purpose of healthcare with NHS staff involved in healthcare**

Informed consent can be assumed. Where information has to be shared widely to provide healthcare, additional efforts should be made to ensure that patients are effectively informed.

- **Social workers or non NHS staff involved in healthcare**

As this disclosure is not as obvious to patients, patients need to be informed of this sharing, consent cannot be assumed.

- **Internal clinical auditors**

Patients should be made aware of this disclosure in information provided to them, informed consent can be assumed.

- **Schools/Special schools**

Explicit consent is necessary for the disclosure of patient information to staff of special schools or head teachers of other schools.

- **Close relative, spouse or partner or friends**

Explicit consent is necessary for the disclosure of patient information to relatives, carers or friends. In exceptional circumstances patient information may be disclosed to a close relative, partner or next of kin without explicit consent if on medical grounds and with regard to the Data Protection Act

2018, the clinician considers it impossible to seek the patient's consent. In these circumstances the reason for the disclosure and the information disclosed should be recorded in the patient's medical records.

The significant role of carers may need to be recognised in the type of information provided, e.g. on discharge from hospital. Only essential information to a patient's care should be disclosed and patients should be made aware that this is the case, explicit consent should be sought, where this is not possible the best interests of the patient should be considered.

- **Occupational health**

Explicit written consent is needed from the patient. Medical assessment by an Occupational Health Physician (OHP) may be critical to the engagement or continued employment of an individual. The OHP must ensure that the individual understands that a report on his or her fitness to work or other information required by law or NHS regulations may be made to the Trust, but other confidential medical information will not be communicated without written consent. It may be necessary for the OHP to request a report from the individuals Consultant or General Practitioner or to inform them of findings but these steps should not be taken without the written consent of the individual.

- **Patient's who are offenders**

Informed consent; information should only be shared with agencies without the patient's explicit consent that the patient knows are contributing to their care and support and the information passed on is used only for an authorized purpose and is not excessive. The Health Care Service for Prisoners, the probation service, police and other criminal justice agencies may be involved in the assessment and care of patients who have committed offences or have otherwise been involved with those agencies.

- **Media**

Explicit consent is necessary for the disclosure of patient information to the media, whether or not the patient is a celebrity or public figure.

During the hours of 8am to 8pm, Monday to Sunday, it is the responsibility of the Operations Centre to provide the media with condition checks on patients. The Operations Centre will contact the ward where the patient is being treated and establish the condition of the patient. Outside the Operations Managers hours ward staff should refer all media requests for information to the Night Coordinator (Bleep 707)

Where the patient is unable to make a decision, the provision of basic information may sometimes be judged to be in their best interests. Where possible, relatives should be consulted, having regard, of course, to their feelings and possible distress. For example, where the police have released the names and addresses of accident victims, it is the Trust practice to confirm the presence of a patient unless the patient or relatives have requested no publicity.

In all circumstances, the Trust must be prepared to justify a decision to release information, which should usually be confined to a brief indication of progress in terms authorized by the relevant health professional e.g. that the patient is satisfactory/stable/critically ill. Occasionally more detailed information than a basic condition check will be given out. However this will only be done by the Communications Office, ext. 3994 or 4433 and only after approval from the consultant responsible for the patient's care.

Sometimes the media can be very demanding and they will try to get further information about the patient by ringing the ward direct. If this happens they must be redirected to the Communications Office on ext. 3994 or 4433 during office hours.

It is the responsibility of the Communications Office to coordinate requests from the Press for interviews and comments. If a member of the press contacts a member of staff directly, they should be referred to the Communications Office. If a patient or former patient had invited the media to report on their treatment, the Trust may comment publicly. Comments should be confined to factual information or the correction of any misleading assertions or published comment. The duty of confidence to the patient still applies.

- **Continuing care requests from other health professionals**

All requests for copies of patient information received from other hospitals/General Practitioners should be forwarded to the General Office in Patient Services. Requests and consent will be dealt with as appropriate.

The request should be made in writing (fax, email or letter), on headed paper, listing the patient demographics and details of the information requested and the reason for the request. This should either be faxed to 01223 414771 or sent by post to the Patient Services Coordinator, Patient Services, Box 153, Cambridge University Hospitals NHS Foundation Trust, Hills Road, Cambridge, CB2 0QQ.

Original case notes are never sent to other Health Professionals. The relevant part of the record is copied, recorded and sent with a request to shred after use and not shared with another party unless prior consent is received.

- **Limited disclosure**

Limited information is made available to the following agencies upon receipt of written explicit consent from the patient. Requests should be forwarded to the General Office in Patient Services. Requests will be disseminated to other departments as appropriate.

- Department of Work and Pensions
- Criminal Injuries Compensation Board
- BUPA
- Private Patient Plan

- Hospital Savings Association
- Private Insurance Claims.

- **Requests for hospital numbers**

When requests for hospital numbers are made, since this is computer held information, always check the source before giving the information. The hospital number is the key to patient data.

- **Legal requests**

Explicit written consent is required from the patient to deal with requests for information from either solicitors or for medical legal reports; the Consultant in charge of the patient care should also be informed. Requests should be forwarded to the Access to Health Records Officer, box 82. Requests will be disseminated to other departments as appropriate.

- **Court orders**

Disclosures may be required by order of a Court or Coroner's Court. Although consent is not necessary, it is good practice for the responsible clinician to be advised in all cases. A note should be recorded in the patient's file. Requests should be forwarded to the Access to Health Records Officer, box 82. Requests will be disseminated to other departments as appropriate.

- **Police**

Information is not made available to the police without the patients consent, except in exceptional circumstances. Information may be released without the patient's consent where there is a robust public interest justification for the purpose of protecting national security or to help the police prevent or solve a serious crime. There are also some statutes that require disclosure to the police.

Where disclosure is justified it should be limited to the minimum necessary to meet the need and patients should be informed of the disclosure unless it would defeat the purpose of the investigation. Requests should be referred to a Senior Manager within the department. Advice is available from the Data Protection Officer or Information Governance Lead.

- **Exceptional disclosures**

For example, investigation of a staff disciplinary matter or untoward incident by the GMC, Audit Commission, Health Service Ombudsman or CHAI.

These bodies will decide what level of information is required for them to fulfill their functions e.g. access to a complete record containing identifiable information, selected parts or just anonymised information.

- To safeguard national security
- For the protection of public health
- Other stature compliance – see Appendix 1

Requests for exceptional disclosure should be dealt with by the Data Protection Officer. Consent is not necessary but it is good practice for the

responsible clinician and patient to be advised when requests have been made and have been complied with. A note should be recorded in the patients file.

- **Complaints Committees**

Access to patient records is vital as it is unlikely that their work could be undertaken without this access. Explicit consent of the patient is required.

- **Hospital chaplains**

Explicit consent of patients is required before confidential information is disclosed to chaplains. Where a patient is unable to consent, consideration should be given in the best interests of the patient and taking into account the views of family members about what the patient would have wanted.

- **Ward white boards and placing information at the end of beds**

Recording patient identifiable information on a white board and placing patient information at the end of the patient's bed requires the patient's verbal explicit consent. When admitting the patient to the ward inform them that information is held in these locations and check whether they have any objections, document in the nursing notes that this has been discussed with the patients. If patients do object the information will have to be removed and another secure location found for this information.

9 Research

A distinction needs to be made between clinical audit and research
Clinical Audit is carried out following or during a consultation or treatment. Clinical Audit reviews current standards of Trust care against best practice. Audit results are discussed by clinicians to make improvements to care and can be published and/or presented, but always in an anonymised format.

Research seeks to investigate new treatments, interventions and management procedures so that patient care outcomes are continually improved.

Clinical Auditors audit what has been done. Researchers research into what could be done in the future.

For guidance in undertaking Clinical Audits, please refer to the Clinical Audit Policy.

The use of anonymised or pseudonymised data is preferable for research purposes. Where this is not possible the use of patient identifiable information to support research may be appropriate and necessary but requires explicit consent from the patient.

All research must have a favorable opinion from the Ethics Committee. The research Ethics Committee, in considering any application for research, will make any necessary stipulations about confidentiality and data protection.

All research and development submissions must be signed off as complying with confidentiality and data protection requirements by the Trust's Data Protection Officer or Information Governance Lead.

Research involving contact with the patient or relative
An explanation of the nature of the research and the procedures proposed must be given to the doctor currently responsible for the patients care and welfare, they must first approach the patient to request if they are interested in taking part in the research. If the patient's consent they can then be contacted by one of the team undertaking the research.

Patients should be provided with information about the research that should include the following information:

- Name of the investigator
- Explain the purpose of the proposed visit
- Identify the procedures in which the patient is being invited to participate
- Refer to the agreement of the patient's doctor
- Emphasis that there will be no visit if the patient does not wish it
- Emphasis that the patient can withdraw subsequently at any time
- Advise who information will be shared with
- Advise how long it will be kept and for how long

The patient must be given time to make a decision and a record kept of the decision.

Relatives: researchers must be sensitive to the implications of studies with a genetic or familial basis. The same process should be followed as for patients.

Subjects (any individual who is being used for research): are entitled to the same rights as patients, consent must be sought. If medical or nursing staff are involved the clinical dean or chief nurse must approve the proposed research.

Patients who lack capacity to make a decision (including unconscious patients)
The Mental Capacity Act 2005 sets out the requirements for research on patients who lack capacity to make a decision. The appropriate body can only approve research on patients who lack capacity if the research is linked to:

- An impairing condition that affects the person who lacks capacity or
- The treatment of that condition

and:

- There are reasonable grounds for believing that the research would be less effective if only people with capacity are involved and

- The research project has made arrangements to consult carers and to follow the other requirements of the Act

The research must also meet one of two requirements:

1. The research must have some chance of benefiting the person who lacks capacity (see below) – benefit must be in proportion to any burden caused by taking part, such as:
   - Developing more effective ways of treating a person or managing their condition.
   - Improving the quality of healthcare that they have access to.
   - Discovering the cause of their condition, if they would benefit from that knowledge.
   - Reducing the risk of the person being harmed, excluded or disadvantaged.

Benefits may be direct or indirect.

2. The aim of the research must be to provide knowledge about the cause of, treatment or care of people with the same condition or a similar condition. The following requirements must also be met:
   - Risk to the person must be negligible
   - No significant interference with the freedom of action or privacy
   - Nothing must be done which is unduly invasive or restrictive

Before undertaking any research, researchers must:

- Obtain ethics approval.
- Get views of carers and other relevant people before involving person, exception to this in situation where urgent treatment needs to be given or is about to be given.

Who can be consulted?

- If they are involved in persons care, interested in welfare – must not be a professional or paid care worker. Would probably be a family member but could be another person or someone with Lasting power of attorney or deputy appointed by Court of Protection (not in a paid capacity such as a solicitor)

When no one meets either of these conditions a researcher must nominate someone else – guidance available from secretary of state for health. This person cannot be involved in research project.

- Respect the objections, wishes and feelings of the person who lacks capacity.
- Place more importance on the persons interests than on those of science and society

A person must be withdrawn from research project if they object to what is happening to them or the carer consulted objects.
For further guidance please refer to Chapter 11 of the Mental Capacity Act Code of Practice, please go to www.justice.gov.uk.

Involving paper medical records only

Clinical staff requiring access to paper medical records must apply to the Patient Records Manager:

- The lead clinician should provide the clinical staff with a letter to take to the Patient Records Manager; this should include an outline of the research/study being undertaken, how often access to the library is required, a list of staff names and designations who will require access to the library and if appropriate a list of patient records that staff will be reviewing.
- Clinical staff are asked where possible to review the medical records in the library rather than take them to their department. In exceptional circumstances the Patient Records Manager will allow notes to be taken from the library for research, teaching or study purposes; the following should be adhered to in these circumstances
    - all medical records should be tracked to an appropriate and accessible location;

The research team must:

- keep the medical records secure;
- ensure medical records are available 24 hours a day, 7 days per week;
- inform the medical records library and departmental secretary if the medical records are moved to another location

Access to Epic

Research study information is recorded in Epic, researchers who are not providing clinical care will be given a research level of access

Monitors will be given access to Epic to review the appropriate section of the patient record where the patients have consented to be involved in a research study, this access is time limited for the period of the onsite visit

10 Confidentiality Model

All staff must comply with the Confidentiality model, please refer to Appendix 2.

11 Breaches/Incidents

A confidentiality clause is included within the Trust's contract of employment as a specific requirement linked to the disciplinary procedures.

Staff who commit a deliberate or careless breach of confidentiality could be taken through disciplinary procedures which could result in loss of employment.

Further guidance is available in the Information Governance Incident Procedure.

12 Training and advice

All staff will received information governance training as outlined in the Information Governance & Information Security policy

13 Social networking sites

Staff are reminded that they are bound by confidentiality clauses in their contract of employment and should take extreme care about the content of information that they share on social networking sites. Reference to contact with colleagues, patients or other members of the public in the course of their work must be avoided to prevent breaches of confidentiality. Breaches of confidentiality may lead to disciplinary action.

14 Monitoring compliance with and the effectiveness of this document

Key standards to be monitored:

- the holding, using, sharing and disposing of personal identifiable information complies with the requirements of the Data Protection Act

The standards will be monitored by the information governance team by:

- audits will be undertaken as per the information governance monitoring and assurance spread-sheet;
- monitoring information risk assessments and incidents, the Information Governance Lead are notified of all incidents and risk assessments relating to information governance. The IGSG receives a monthly report on information risk assessments and incidents raised. The IGSG is responsible for ensuring that any actions are implemented by the IG team or department.

15 References

NHS Code of Practice on Confidentiality
Data Protection Act 2018
Data Security & Protection Toolkit

16 Associated documents

Policies and Procedures
Data Protection Policy
Access to Health Records policy and procedure
Records: preservation, retention and destruction policy and procedure
Records Management Strategy
Records Management policy and procedure
Information Governance & information securty Policy
Freedom of Information policy and procedure
Waste Management Policy
Information Governance Incident and Investigation Procedure

Equality and diversity statement

This document complies with the Cambridge University Hospitals NHS Foundation Trust service equality and diversity statement.

Disclaimer

It is **your** responsibility to check against the electronic library that this printed out copy is the most recent issue of this document.

The table below will be completed by the Trust Documents Team:

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Appendix 1

Mandatory Disclosure of Personal Health Data

Circumstances requiring disclosure, who is responsible for the disclosure and to whom information should be disclosed.

Notifiable infectious diseases

By the doctor currently responsible for the patient's care and welfare to the Chief Environmental Health Officer of the relevant local authority through the Consultant in Communicable Disease Control on Environmental Health & Protection Notification Certificates. There are available from the Infectious Disease unit.

Poisonings and serious accidents at the work place

By the doctor currently responsible for the patient's care and welfare to Health & Safety Executive via the Personnel Department or On-Call Manager using form UCH291. This information must be reported as soon as possible and does not have to wait until the next working day.

Abortions

By the doctor who terminates the pregnancy to CMO (DSS) on form HSA4.

Drug Addicts

By the doctor in attendance to the CMO (Home Office) on form FO9 – Notification of Drug Addiction (available from EAU)

Still Births and Deaths

By the member of staff attending the birth, a stillbirth on form 34 given to the parents to be taken by them to the Registrar.

Deaths where the cause cannot be established

To HM Coroner by the Doctor certifying death.

Road traffic accidents

There are two situations:

The police must obtain the doctor's consent before attempting to obtain a specimen from the suspected patient.

There is no duty of disclosure except in order to obtain payment for treatment. The doctor may delegate this responsibility to the Head of Patient Services

Offenders thought to be mentally disordered

By the doctor currently responsible for the patient's care to the Court requesting the information prior to making an order for admission or to prevent discharge.

Sexual abuse of children

By the doctor currently responsible for the child's care to the Court requesting the information (The Children's Act)

Prevention of terrorism

By the person holding the identifiable health data to the police or member of the armed services. This duty lies on all individuals who become aware of such a possibility.

Special educational needs

By a member of staff to the appropriate Local Education Authority.

Sexually transmitted diseases

By a member of staff to a doctor (or person employed under the direction of a doctor) for the

purpose of treatment or prevention of the spread of the disease.

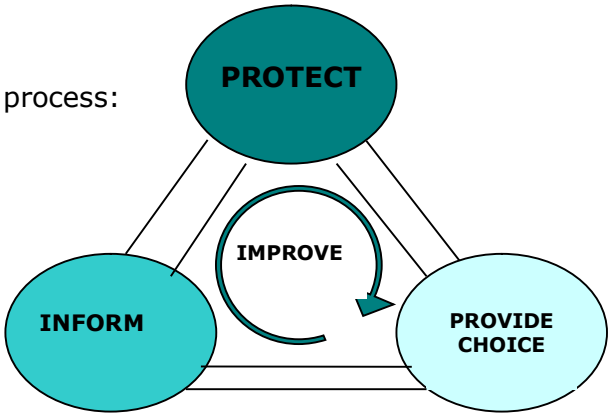
Bodies empowered to order disclosure
Any court of Law – including coroners, courts and industrial tribunals
Health Service Commission
Inquiries appointed by Secretary of State
Health & Safety Commission
Health & Safety Executive
Employment Medical Advisers
Professional bodies of Health Professions
Health visitors, opticians and professions allied to medicine but not pharmacists
Mental Health Act Commission
Mental Health Review Tribunals

All disclosures must be in line with the Data Protection Act 2018.

Appendix 2:

Confidentiality Model

All staff must follow this process:



INFORM

All staff must

1. Ensure information leaflets on patient confidentiality and information disclosure have been given out

2. Make clear to patients when information is recorded or health records are accessed

3. Make clear to patients when they are or will be disclosing information with others

4. Check that patients are aware of the choices available to them in respect of how their information may be disclosed and used

5. Check that patients have no concerns or queries about how their information may be disclosed and used

6. Answer any queries personally or direct the patient to the Data Protection Officer Ext: 256141

7. Respect the rights of patients and facilitate them in exercising their right to have access to their health records via the Trust Access to Records Procedure Access to Health Records Officer Ext 2327

PROTECT HEALTH INFORMATION

1. Procedures to ensure that all staff, contractors and volunteers are at all times fully aware of their responsibilities regarding confidentiality;

2. Record patient information accurately and consistently

3. Keep patient information private

4. Keep patient information physically secure

5. Disclose and use information with appropriate care in line with Data Protection Act 2018, Data Sharing Protocols and Confidentiality NHS Code of Practice

6. Ensure any changes in uses of information are communicated to patients e.g. old versions of booklets removed when new versions are written

PROVIDE CHOICE

All staff must

1. Ask patients before using their personal information in ways that do not directly contribute to, or support the delivery of, their care

2. Respect patients' decisions to restrict the disclosure or use of information, except where exceptional circumstances apply

3. Communicate effectively with patients to ensure they understand what the implications may be if they choose to agree to or restrict the disclosure of information

IMPROVE

All staff must

1. Be aware of the issues surrounding confidentiality, attend induction and annual refresher courses and seek training or support where uncertain in order to deal with them appropriately. (Data Protection Officer Ext 3768/2788)

2. Report breaches, possible breaches or risk of breaches via the Trust's incident reporting process or contact the Data Protection Officer Ext 256141

3. Ensure leaflets/posters inform patients of non-obvious uses of their information. Stated uses of information must reflect actual use

4. Changes of usage of patient information must be reinforced by the provision of updated information materials where appropriate