



Personal Data Confidentiality and Health Records

“In Confidence”

**It is your legal right to have personal information about
your health held in confidence**

Introduction

This leaflet tells you what happens to the personal information held about you in our hospitals. The law defines the term ‘health record’ as any record which:

- Consists of information relating to the physical or mental health 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.

We follow the Department of Health guidelines on “the protection and use of patient information”.

To provide the best possible standards of healthcare, we need to keep information about you. This includes name, address, date of birth, next of kin, and details of your medical history and treatment. The records are stored both on paper and computer and may take other forms such as x-ray films and photographs.

Why we need information about you

Treatment records kept on patients help clinical staff provide the right healthcare to each person within the NHS. Information, with personal details removed and often summarised, is also used for other purposes, such as research, service development and audit.

Data built up from your statistics is also useful in managing and planning the NHS, e.g. payment of doctors and nurses, and looking after the health of the general public.

How information about you is used

You have a right to privacy and we owe you a duty of confidentiality. However, if you agree, we will keep your relatives and friends up-to-date with the progress of your treatment. We will not give your relatives sensitive information without your consent. You also have the right to change your mind about who can, or cannot, have access to the information.

People who may be involved with your records include a wide range of hospital staff such as:

- Doctors/ nurses/ midwives/ student doctors
- Radiographers
- Cardiology/ Pathology staff
- Technicians
- Pharmacists
- Allied Health Care Professionals including specialist therapists e.g. physiotherapists
- Social workers
- Administrative and clerical staff

Information may be used outside the hospital and may be shared with others to aid your ongoing care, such as:

- GPs, community nurses and midwives
- Health visitors
- Social workers

In order to manage and plan within the NHS, we send information about you to the Clinical Commissioning Group responsible for your care. We may also send it to the Health and Social Care Information Centre (HSCIC).

Use of information held by the HSCIC is strictly controlled.

Other parties that may require to see your records or receive personal information about you include:

- **Social Services and Benefits Agencies** may require medical reports on you from time to time; these will only be disclosed with your signed consent. However, failure to co-operate with these agencies can lead to patients' loss of benefit or support.
 - **Doctors** have public responsibilities including a legal duty to inform other agencies in particular circumstances e.g. the Coroner in relation to certain deaths, and the Public Health Agency in cases of infectious diseases and food poisoning.
 - **Solicitors** may ask for medical reports. These will only be supplied with your consent.
 - **The police**, with whom doctors must co-operate in matters of overriding public interest, e.g. where criminal offences have been committed. Senior police officers, in cases where consent has not been obtained, have the right to request information about patients suspected of being involved in a criminal offence in line with Data Protection Act and Crime and Disorder Act legislation.
 - **Law courts** can insist that hospital trusts disclose medical records to them. Doctors cannot refuse to co-operate with the court without risking serious punishment.
 - **Insurance companies** may ask for medical reports in relation to claims or about prospective clients. Patient consent is required.
 - **Externally appointed researchers** who collect statistics and information for the purpose of audit and data collection, allowing the NHS to ensure our services are focused on what you, the patient, require.
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Use of patient information by the NHS Litigation Authority

The NHSLA has a legal, moral and ethical duty to manage and raise the standards of risk management throughout the NHS. To help achieve this, all NHS trusts are assessed every few years against a set of risk management standards which are based on those factors that give rise to the greatest number and cost of claims. More information about the NHSLA risk management programme is available on their website: www.nhsla.com/riskmanagement.

As part of the assessment process, the assessors may look at a small number of sets of patient notes and a selection of incident report forms. None of these documents will be removed from Trust premises. The aim is to ensure that these documents are created and managed in accordance with appropriate policies and procedures, e.g. whether they are written clearly, signed and dated, stored securely, etc. The assessors are not concerned with individual patient details. They are all professional people who have previously worked in NHS organisations and are now employed on behalf of the NHSLA under strict principles of confidentiality.

If you wish to object to your records being made available during an NHSLA assessment, please notify the Trust.

Keeping your records and data confidential and accurate

Everyone working in the NHS has a legal duty to maintain the highest level of confidentiality and accuracy about your personal information. This includes staff that work on a voluntary basis. Anyone receiving confidential information about you is also under a duty of confidence, which is written into his or her contract of employment.

When attending any appointment or admission your personal details should be confirmed with you as being accurate. Please confirm any changes that are required.

Your rights

Seeing your medical records

You have the right to see your medical records, unless:

- Some or all of the information is deemed harmful, physically or mentally, to you, or
- The information relates to, or was provided by, an identifiable individual (third party) apart from the patient or health professional, or
- You are applying on behalf of someone who has died or is no longer capable of managing their own affairs, but who originally gave the information on the understanding that it would not be revealed later.

You can ask the person treating you if you can see your notes and if they will go through them with you. This is free of charge.

If your request cannot be granted for any reason, or if you require a copy of your notes, you can apply in writing. Please see the guidance given on the following pages.

I have some questions...

• Can my doctor give information to my employer?

Doctors cannot give information about you to an employer without your permission. If, with your agreement, your doctor writes a medical report, you are entitled to see it before it is passed on, unless your doctor decides you could be harmed by seeing it.

You can refuse to let your employer or insurance company see the report or you can add your own written comments.

• What if I do not want my personal information to be shared with particular people or organisations?

Inform your doctor or a member of his or her team. If you make your decision after leaving the hospital, call:

Trust's Data Protection Officer
(Director of ICT)

 01622 227416

No unauthorised persons will have access to your records without your consent. Where there is a legal requirement to share the information, the Trust will have to comply with the law.

- **How do I apply?**

To apply for access to your records, you should write to the **Health Records Manager** at your hospital. In your letter give your name, address, date of birth and, if possible, your NHS number. Explain that you are applying for access to your health records and give the approximate dates of any treatment relevant to the records you require. Contact details are given later in this leaflet.

- **Who can apply to see medical records?**

You can apply to see your own records, and can also apply:

- On behalf of **your child** if they are under 16. The child's consent will be needed if they are under 16 but of sufficient maturity to consent to allow you to see their records.
- To see the record of a **patient who has died**, if you are acting as their personal representative or if you have a claim resulting from their death.
- On behalf of **someone who is not capable** of giving their permission because of age or illness. However, you would have to be appointed by a court to do this.

If **you are under 16**, an application to see your records can be considered depending on how much the doctor in charge of the case feels you understand.

- **What will it cost me?**

For providing paper copies of your medical records, or x-ray films, you will be charged a fee depending on the work involved, up to a maximum of £50. For providing copies of your computerised records, the fee is £10.

- **How long will it take?**

We must provide a copy of your records within 40 days from payment of the appropriate fee.

- **If granted access, how will the records be shown to me?**

You will be sent a photocopy of the relevant parts of your medical record by post. If you require an explanation of any medical terms or abbreviations which are not clear to you, or entries which are difficult to read, then you may request an appointment with an appropriate member of staff to have these explained. This can be arranged via the Access to Medical Records Department, Paddock Wood:

Telephone

 01892 638895

Fax

 01892 638893

- **Can I change or alter my records?**

If you think the record is inaccurate you can ask for it to be corrected. If the Trust finds that the data held on the record is inaccurate it will amend the records appropriately. However, if the Trust believes the data to be accurate it is not obliged to accept your corrections, but a note about why you think the information is inaccurate will be added to your records. You will be sent an amended copy of your records free of charge.

- **Can I be refused access to my records?**

In certain circumstances you can be refused access to part or all of your records. Please see the earlier section "**Your rights: Seeing your medical records**".

Any other questions?

Please use this space to write any other questions you have and use these to discuss your concerns. Guidance on who to contact for advice is given towards the back of this leaflet.

How can I find out more?

If you have any questions that this leaflet does not answer, please contact:

The Health Records Manager

Maidstone Hospital

 01622 224359

We are unable to give information from your health records over the telephone and we request your understanding on this.

If I need more information about the application of the Data Protection Act 1998 within the NHS, who should I contact?

Trust's Head of Information Governance

Telephone

 01892 634029

If I am concerned about the use or storage of my personal data, who should I contact?

All NHS and Primary Care Trusts have a Caldicott Guardian. This is the person who oversees the system to keep information safe and secure. The Caldicott Guardian in the Trust is:

Medical Director

 01622 226415

Or you can write to the:

Caldicott Guardian

Maidstone and Tunbridge Wells NHS Trust

Maidstone Hospital

Hermitage Lane

Maidstone TN2 4QJ

Or contact the Trust's Head of Information Governance:

Telephone

 01892 634029

Patient Advice and Liaison Service (PALS)

If you would like to raise any concerns, make comments and suggestions or require information on Trust services, you can contact **PALS**. Office opening times are Monday to Friday 10.00am to 4.00pm. Both offices offer a 24 hour answering machine. Messages will be responded to within one working day, so please do leave a contact number.

PALS Maidstone Hospital	 01622 224960
PALS Tunbridge Wells	 01892 632953
PALS Email	mtwpals@nhs.net
PALS SMS	 07747 782317
PALS Maidstone Fax	 01622 224843
PALS Tunbridge Wells Fax	 01892 632954

PALS postal address

PALS
Maidstone Hospital
Hermitage Lane
Maidstone
Kent
ME16 9QQ

Hospital switchboard  0845 155 1000

 01622 729000

Trust website www.mtw.nhs.uk

Further information

- The Department of Health has a website that provides information about the Caldicott Guardians and what they do:

Website: www.doh.gov.uk.ipu/confiden/index/htm

- You can also contact the office of the Information Commissioner  0870 600 8100

Website: www.dataprotection.gov.uk

Accessing other Trust held information

The Freedom of Information (FOI) Act entitles anybody to ask the Trust for recorded information that it keeps. Requests for information should be made in writing (by letter or email) to:

FOI Administrative Clerk
C/o Trust Management Secretariat Office
Maidstone Hospital, Hermitage Lane
Maidstone, Kent ME16 9QQ

Email: mtw-tr.FOIadmin@nhs.net

We will confirm if we hold the information you ask for, and provide it (unless exempt) in your preferred format. If an exemption applies to your request we will let you know.

Requests for information about living individuals are handled under the Data Protection Act 1998 and can usually only be given to the person the information is about.

For further information about the FOI Act you can visit:

Website: www.foi.gov.uk



MTW NHS Trust is committed to making its patient information accessible in a range of languages and formats. If you need this leaflet in another language or format please ask one of your clinical care team or the PALS Team. We will do our best to arrange this.

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PALS Maidstone Hospital

☎ 01622 224960

PALS Tunbridge Wells

☎ 01892 632953

PALS Email

mtwpals@nhs.net

PALS SMS

☎ 07747 782317

PALS Maidstone Fax

☎ 01622 224843

PALS Tunbridge Wells Fax

☎ 01892 632954

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