

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. Your personal data is data which by itself or with other data available to us can be used to identify you.

To provide the best possible standards of healthcare, we need to keep information about you.

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”.

You can contact our Data Protection Officer (DPO) at Maidstone Hospital, Hermitage Lane, Maidstone, Kent ME16 9QQ if you have any questions.

The types of personal data we collect and use

We will use your personal data for the reasons set out below and we’ll use it to provide healthcare services to you. We will collect most of the data directly from you but we may also collect data indirectly from others to ensure we provide the best possible care.

Full name and personal details including contact information (e.g., home address and address history, email address, home and mobile telephone numbers):

- Date of birth and/or age;
- Family, lifestyle or social circumstances, if relevant to the service (e.g., the number of dependents you have or if you have a carer);
- Personal data about other named individuals (e.g., emergency contacts). You must have their authority to provide their personal data to us.
- Information relating to your physical or mental health and treatment. This includes details of your medical history and treatments. The records are stored both on paper and electronically and may take other forms such as x-ray images and photographs.

Why we need information about you: the legal basis and purpose

Information collected about you to deliver your health care is also used to assist with:

- Making sure your care is of a high standard.
 - Using statistical information to look after the health and wellbeing of the general public and planning services to meet the needs of the population.
 - Assessing your condition against a set of risk criteria to ensure you are receiving the best possible care.
 - Preparing statistics on our performance for the Department of Health and other regulatory bodies.
 - Helping train staff and support research.
 - Supporting the funding of your care.
 - Reporting and investigation of complaints, claims and untoward incidents.
 - Reporting events to the appropriate authorities when we are required to do so by law.
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The legal basis for the processing of data for these purposes is that the NHS is an official authority with a public duty to care for its patients, as guided by the Department of Health and Data Protection law says it is appropriate to do so for health and social care treatment of patients, and the management of health or social care systems and services.

If we need to use your personal information for any reason beyond those stated above, we will discuss this with you. You have the right to ask us not to use your information in this way. However, there are exceptions to this which are listed below:

- the public interest is thought to be of greater importance for example:
 - if a serious crime has been committed
 - if there are risks to the public or our staff
 - to protect vulnerable children or adults.
- we have a legal duty, for example registering births, reporting some infectious diseases, wounding by firearms and court orders
- we need to use the information for medical research. We have to ask permission from the Confidentiality Advisory Group (appointed by the NHS Health Research Authority).

Sharing your personal data

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
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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 are also required to send it to NHS Digital.

Use of information held by the NHS Digital 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.
 - **The Coroner** may require access to a deceased patient's records or in the case of a baby death, the notes of the mother as part of their investigations. They have the right to request sight of copies or to review originals without the need for consent.
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- **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.

Use of patient information by NHS Resolution and Care Quality Commission

The NHS Resolution (NHSR) and Care Quality Commission (CQC) have 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 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 role of the NHSR and CQC is available on their website: www.resolution.nhs.uk and www.cqc.org.uk .

As part of the CQC inspection 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 and work under strict principles of confidentiality.

If you wish to object to your records being made available during an 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 the personal details held by the Trust about you should be confirmed with you as being accurate. Please notify staff of any changes that are required.

Your rights

Data Protection law gives individuals rights in respect of the personal information that we hold about you. These are:

1. To be informed why, where and how we use your information.
2. To ask for access to your information.
3. To ask for your information to be corrected if it is inaccurate or incomplete.
4. To ask for your information to be deleted or removed where there is no need for us to continue processing it.
5. To ask us to restrict the use of your information.
6. To ask us to copy or transfer your information from one IT system to another in a safe and secure way, without impacting the quality of the information.
7. To object to how your information is used.
8. To challenge any decisions made without human intervention (automated decision making)

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
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- 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.

If your request cannot be granted for any reason, or if you require a copy of your notes, you can apply in writing.

- **How do I apply?**

To apply for access to your records, you should write or email to the **Subject Access Request Department**

Subject Access Requests
Health Records Department
Maidstone Hospital
Hermitage Lane
Maidstone
Kent
ME16 9QQ

Email: mtw-tr.SAR@nhs.net

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.

For more information and application forms please visit <https://www.mtw.nhs.uk/patients-visitors/yourinformation>

- **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.
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- 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?**

Under the Data Protection Act 2018 there is no fee.

- **How long will it take?**

We must provide a copy of your records within 30 calendar days from receipt of application.

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

You will be sent a copy of the relevant parts of your health record. This is currently done by post unless specific arrangements have been agreed to send the information electronically. 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 Subject Access Request Department.

- **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”**.

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 ☎ 01622 228698
(Trust Secretary)

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.

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 via the Trust switchboard: ☎ 01622 729000

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 within the NHS, who should I contact?

Data Protection Officer (DPO)

Telephone

 01622 228698

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 Trusts have a Caldicott Guardian. This is the person who champions confidentiality within the Trust. 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** on:

PALS Maidstone

 01622 224960

PALS Tunbridge Wells

 01892 632953

Email

mtw-tr.palsoffice@nhs.net

Both offices offer a 24 hour answering machine. Messages will be responded to within one working day, so please do leave a contact number.

Office opening times are Monday to Friday 9.00am to 5.00pm.

PALS postal address

PALS

Maidstone Hospital

Hermitage Lane

Maidstone

Kent

ME16 9QQ

Hospital switchboard

 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.ico.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.FOladmin@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 Patient Advice and Liaison Service (PALS). We will do our best to arrange this.

Maidstone and Tunbridge Wells NHS Trust welcomes all forms of feedback from our service users. If the standard of service you have received from the Trust does not meet your expectations, we want to hear from you. Please speak with the ward manager or the nurse in charge in the first instance, or you can contact the **Patient Advice and Liaison Service (PALS)** on:

Telephone: ☎ 01622 224960 or ☎ 01892 632953

Email: mtw-tr.palsoffice@nhs.net

or visit their office at either Maidstone or Tunbridge Wells Hospital between 9.00am and 5.00pm, Monday to Friday.

You can be confident that your care will not be affected by highlighting any areas of concern or making a complaint. The Trust will retain a record of your contact, which is held separately to any medical records. If you are acting on behalf of a patient, we may need to obtain the patient's consent in order to protect patient confidentiality. More information on PALS or making a complaint can be found on the Trust's website: www.mtw.nhs.uk or pick up a leaflet from main reception.

Issue date: July 2018

Database reference: RWF-OPLF-PC9

Review date: July 2021

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The master copy is held on Q-Pulse Document Management System

This copy – REV3.0
