



7808

Privacy Notice of THE SOUTH EAST ENGLAND GENERAL HISTOPATHOLOGY EXTERNAL QUALITY ASSESSMENT SCHEME

How your personal data is being used by SE England General Histopathology EQA Scheme

1. About us

The South East England General Histopathology EQA Scheme is a consensus based External Quality Assessment scheme approved by the Royal College of Pathologists based on the guidance “Principles and Guidance for Interpretive External Quality Assessment Schemes in Laboratory Medicine” RCPATH 2017 (G153), and accredited to ISO17043:2010. The Scheme performs External Quality Assessment for Consultant Histopathologists in General Histopathological practice and also has an educational element. Three times each year, ten cases are circulated that are representative of a routine workload together with two slightly more difficult / unusual cases of educational value which are not scored.

Participation in the South East England General Histopathology EQA Scheme is open to any consultant pathologist or Associate Specialist within Essex, Kent, Surrey, Sussex or South London, but consideration will be given to applicants outside the area on a case by case basis, including overseas. Long-term locum pathologists are also able to participate, subject to the payment of the current subscription rate.

The scheme is hosted by Maidstone and Tunbridge Wells NHS Trust, a large acute hospital Trust in the south east of England and an NHS provider organisation.

The scheme Headquarters is located within Cellular Pathology at Maidstone Hospital, Hermitage Lane, Maidstone, Kent ME16 9QQ, the main telephone number is 01622 225738 and the email is mtw-tr.EQA@nhs.net

The Trust is registered as a Data Controller on the Data protection register of the Information Commissioner’s Office (the registration number is Z9042352).

2. Your personal data

When you register and or participate in the scheme, your participation is recorded (on paper records and/or on IT systems) to in order for the scheme to monitor your performance and involvement in the scheme. This information is called “personal data” because it relates to you as an individual who can be identified. The ways in which the scheme uses your personal data are governed by law. The principal legislation that applies is the European Union’s General Data Protection Regulation (GDPR) and the UK’s Data Protection Act 2018 (DPA). Confidential information that you give to our staff to enable them to monitor your performance and involvement is governed by the common law duty of confidentiality¹

When we use your information, the law calls this “processing”. The personal data we process includes:

- Your name, work postal address, work email address, accreditation status and number of prime laboratory under which you are contracted to work and landline phone number, , Name of person to invoice, departmental central contact, and lead departmental consultant
- Proof of eligibility to practice in the UK and current position
- Participation history in educational cases, case submission, merge consultations and circulations, including organ system opt-outs
- Details of contacts you have had with us via email, such as response submission, consultation responses, submission of cases, compliments, complaints, appeals, other email queries
- Records of telephone conversations
- Assessments of your performance, including Records and reports regarding your personal score and performance (ranking) in each round and in cumulative rounds, and related correspondence
- Case submission reference numbers, patient gender, age and clinical diagnosis. Patient identifying details are not held.

¹ A duty of confidence arises when one person discloses information to another (for example a patient to a healthcare professional) in circumstances where it is reasonable to expect that the information will be held in confidence. This is a legal obligation derived from case law (i.e. rather than being an explicit requirement of any particular legal Act), and the obligation for information to remain confidential remains in place after a person has died.

- Feedback on discrepant case submissions and on poor performance
- Declarations of interest and/or gifts and/or hospitality if you are a scheme advisory panel member or scheme organiser

3. How we obtain and use your personal data

The personal data we hold about you will be provided directly by yourself when you register to join the scheme, when you notify us of changes in employment or when you become a scheme advisory panel member or scheme organiser.

We need accurate, up-to-date data about you because this:

- allows us to ensure the glass slide circulations reach you (if applicable)
- ensure participation certificates reach you
- allows us to review, and if necessary, investigate your personal score to determine that this was accurately derived
- helps us provide high quality scheme material and maintain the educational quality of the scheme
- helps us review the quality and outcome of innovation of the scheme via participant surveys
- helps us investigate any incidents, complaints, concerns or issues that may arise
- is necessary for the Scheme to be paid for your participation
- contributes to Scheme statistics (which in turn helps the Scheme plan its future services)

Our use of your personal data is governed by the law and we have a duty to ensure your personal data is kept safe and secure. Your personal data may be stored within electronic and/or paper records. Such records are restricted so that only those individuals who have a need to access your personal data can do so.

3.1 Sharing your personal data

We will only share information about you with the organiser of the scheme by confidential code, issued at the time of joining the scheme. Your personal details will remain unknown to the organiser in all circumstances.

We will also share information about you in the event of receiving a serious complaint from you which is investigated by and responded to by Trust personnel outside the scheme.

We will only share information about you with the medical director or equivalent in your organisation when it is necessary for patient safety, for example in the case of inadequate engagement following the triggering of an action point.

When we share such information, we ensure we do this in a secure manner, in accordance with the principles of the GDPR.

The other circumstances in which we may share your personal data are described below:

3.1.1 Royal College of Pathologists

- We are obligated to share information about you with the Cellular Pathology National Quality Assurance Advisory Panel (NQAPP) if you trigger a second action point or fail to respond to a first action point trigger
- We share summary data about the scheme annually, including the number of circulations per year, number of participants in each circulation, number of participants taking part in educational cases, case consultations and user surveys

3.1.2 The law

Sometimes we have to pass on personal information by law, for example:

- when required to by a formal court order;
- when sharing information with the Police may prevent a serious crime, or prevent harm to you or other people

3.2 Direct marketing

The Scheme will not sell personal information for any purpose, and will not provide third parties with your information for the purpose of marketing or sales.

4. Transfers of personal data to data controllers and processors located outside the European Economic Area (i.e. third countries) or international organisations

The scheme does not transfer your personal data to data controllers and processors located outside the European Economic Area (i.e. third countries)² or international organisations.

² See www.gov.uk/eu-eea for a list of countries within the EEA

5. The legal basis for processing your personal data and your associated rights

The GDPR includes 8 separate rights for individuals. However, the GDPR also obliges us to decide the specific legal basis under which we will process your personal data, and the rights you have are directly linked to the legal basis we rely on. Not all of the 8 rights apply to all legal bases.

5.1 Public task

We primarily process your personal data on the basis of Article 6(1)e of the GDPR, which relates to that processing being necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Trust. The UK's Information Commissioner's Office (ICO) calls this legal basis "Public task", and the ICO expects most NHS provider organisations to rely on this legal basis for most of the data processing they do. This is because our underlying tasks, functions and powers have a clear basis in law (under numerous Acts of Parliament such as the Health and Social Care Act 2012).

When we rely on the "Public task" legal basis, only 6 of the 8 rights under the GDPR apply:

- **The right to be informed.** This means that we must provide you with information about why we process your personal data, how long we hold that data, and who we share that data with. The ICO calls this "privacy information", and the Scheme meets its obligations under this right through this Privacy Notice, which has been developed to comply with the ICO's expectations
- **The right of access.** You have the right to access the personal data that we hold about you. This is commonly referred to as "subject access", and asking to see your personal data is called a "Subject Access Request". The GDPR obliges us to respond to such requests within 1 month, and in most circumstances, we cannot charge a fee to deal with such requests. Requests to access your personal data should in the first instance be made to the Scheme administrator mtw-tr.EQA@nhs.net, who should be able to obtain that information.
- **The right to rectification.** You have the right to have inaccurate personal data rectified, or completed if it is incomplete. The DPA states that personal data is "inaccurate" if it is incorrect or misleading as to any matter of fact. If, for example, you therefore ask us to rectify a recorded opinion from a member of staff, we may not conclude that the record of that opinion is inaccurate and needs to be rectified, as opinions are, by their very nature, subjective. The GDPR obliges us to respond to such requests within 1 month. However, we can refuse a request for rectification if the request is manifestly unfounded or excessive (including taking into account whether the request is repetitive). There may also be some other exemptions under the GDPR or DPA that we judge should apply, but these exemptions will only be applied on a case by case basis. If you wish to request that your personal data be rectified, you should, in the first instance, discuss your request with the Scheme administrator mtw-tr.EQA@nhs.net. If you are not satisfied with the response, you can however contact the Trust's Data Protection Officer (section 7 for their contact details), and specify what data you believe should be rectified and why.
- **The right to restrict processing.** Restricting data processing means that we can store your personal data but not use it. You have the right to request that we restrict or suppress your personal data if:
 - You believe your personal data is inaccurate and you wish to verify the accuracy of that data;
 - You believe your personal data has been unlawfully processed (i.e. that we have breached the first principle of the GDPR³)
 - We no longer need your personal data but you need us to keep it in order to establish, exercise or defend a legal claim; or
 - You have objected to us processing your data under Article 21(1) of the GDPR (the right to object – see below), and we are considering whether our legitimate grounds override your legitimate grounds

The GDPR obliges us to respond to requests to restrict processing within 1 month. If you wish to request that your personal data be restricted, you should contact the Trust's Data Protection Officer (see section 6 for their contact details) and specify what data you believe should be restricted and why (making reference to one of the 4 reasons listed above).

³ That personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject

- **The right to object.** As the Trust relies on the “Public task” legal basis, you have the right to ask us to stop processing your personal data. However, you must give specific reasons why you are objecting to us processing your data, and these reasons should be based upon your particular situation. You should also note that this is not an absolute right, and we can continue processing if we can demonstrate compelling legitimate grounds for the processing, which override your interests, rights and freedoms. If you wish to object to us processing your personal data, you should contact the Trust’s Data Protection Officer (see section 7 for their contact details), and specify what data processing you are objecting to and why. However, if we are satisfied that we do not need to stop processing your personal data, we will let you know, and explain our decision. In such circumstances, you have the right to make a complaint to the ICO (see section 9 for their contact details) and/or seek to enforce your right through a judicial remedy (i.e. through the law courts).
- **Rights in relation to automated decision making and profiling.** Automated individual decision-making is when a decision is made solely by automated means without any human involvement. Profiling is the automated processing of personal data to evaluate certain things about an individual. Profiling can be part of an automated decision-making process. The GDPR has additional rules to protect individuals if they are subject to automated decision making and profiling. However, we do not process your personal data in this way, so those rules, and the associated rights, do not apply.

You do not therefore have:

- The right to erasure i.e. you do not have the right to have the personal data we hold about you erased. You do however have a right to restrict how we process that data (see above);
- or
- The right to data portability i.e. you do not have the right to obtain and reuse the personal data we hold about you for your own purposes across different services, nor to ask that we copy or transfer the personal data we hold in our IT environment to another such environment in a safe and secure way, without affecting its usability.

5.2 Contract

When we process your personal data to fulfil the terms of your enrolment on the scheme, we do this on the basis of Article 6(1)b of the GDPR, which relates to that processing being necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract. When we rely on the “Contract” basis to process your personal data, you do not have the right to object, but you do have the right to erasure and the right to portability. If you wish to exercise these rights, you should contact the Trust’s Data Protection Officer (see section 7 for their contact details) and describe the personal data concerned and the action you would like us to take.

5.3 Legal obligation

There may be occasions when we need to process your personal data to comply with a common law or statutory obligation. When this is required, we do this on the basis of Article 6(1)c of the GDPR, which relates to such processing being necessary for compliance with a legal obligation to which the controller is subject. When we rely on the “Legal obligation” basis to process your personal data, you do not have the right to object, the right to erasure, or the right to portability.

5.4 Consent

When we process your personal data for any other means, we do this on the basis of Article 6(1)a of the GDPR, which relates to you giving consent to the processing of your personal data for one or more specific purposes. If this is the case, you will be asked to give explicit consent i.e. we will not presume consent from silence, inaction or pre-selected choices. Under such circumstances, you also have the right to withdraw your consent for that processing.

6. The legal basis for processing special categories of personal data

Special category data is personal data which is more sensitive, and so needs more protection (as this type of data could create more significant risks to a person’s fundamental rights and freedoms, by putting them at risk of unlawful discrimination). Such data includes information about an individual’s race; ethnic origin; politics; religion; trade union membership; genetics; biometrics (where used for ID purposes); health; sex life; or sexual orientation. The scheme does not hold this information.

7. Our Data Protection Officer (DPO)

As the host of the scheme is a public authority, the GDPR requires us to appoint a Data Protection Officer (DPO), and our Trust Secretary has been appointed to that role. Our DPO assists us to monitor internal

compliance with the GDPR, informs and advise us on our data protection obligations, provides advice regarding Data Protection Impact Assessments (DPIAs) and acts as a contact point for data subjects and the ICO.

Our Data Protection Officer can be contacted via email (kevinrowan@nhs.net) or telephone (01622 228 698).

8. Retention periods

We hold personal data for specified periods of time, as set out in the Records Management Code of Practice for Health and Social Care 2016.

9. Your right to complain

If you wish to complain about how we have processed your personal data, you should, in the first instance, contact our complaints team, describe the nature of your complaint, and (ideally) state what action you would like the Trust to take.

Our Complaints Department can be contacted by email at mtw-tr.complaints@nhs.net or via: Our Complaints Department can be contacted by email at mtw-tr.complaints@nhs.net or via:

The Complaints Department
Maidstone and Tunbridge Wells NHS Trust
Maidstone Hospital
Hermitage Lane
Maidstone
Kent ME16 9QQ

If you are dissatisfied with the outcome, you have the right to ask the Information Commissioner's Office (ICO) to investigate your complaint, using the ICO's website, at <https://ico.org.uk/make-a-complaint/your-personal-information-concerns/>.