

## Confidentially and Privacy Statement for Patients

Updated on 8th April 2020

Medway NHS Foundation Trust (the Trust) Windmill Road, Gillingham, Kent ME7 5NY collects information about you in order to provide your healthcare. Our aim is to maintain full and accurate records of the care we provide for you and keep this information confidential and secure.

This explains how the Trust uses and manages the information it holds about you, including how the information may be shared with other NHS organisations and non-NHS organisations, and how confidentiality is maintained.

We may refer to different types of information such as “personal data” and “special personal data”.

Personal data is any information about a living individual who can be identified from that information.

There are special rules that apply to “special personal data”. Special personal data includes information about:

- Your health (including mental health)
- Genetic data and biometric data where processed to uniquely identify an individual
- Your sex life or sexual orientation
- Racial or ethnic origin
- Political opinions
- Religious or philosophical beliefs
- Trade union membership

We also refer to your “Care Team”. Your Care Team is made up of the health and social care staff directly who provide or support your care. This includes doctors, nurses and social workers as well as members of staff who provide administrative or technical support like receptionists, porters and laboratory technicians.

Everyone working in the NHS has a legal duty to maintain the highest level of confidentiality. Generally, your records will only be seen by your Care Team. Some administrative processes require information that may identify you; however many of these processes will use anonymous information.

### **What information do we collect?**

The information we store and use about you can includes:

- facts about you e.g. name, address, date of birth, nationality, gender and NHS number
- equality and diversity information about you. This may include special personal data like details of your ethnicity, sexual orientation, religious beliefs or opinion, biometric data, genetic data, criminal convictions and offences.
- information about next of kin or carers (including their contact details and their relevant medical history if required).
- notes and reports relevant to your health, including any information you have told us about your health.
- details of your treatment and care, including the professional opinion of the staff caring for you

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- results of investigations, such as laboratory tests and x-rays
- relevant information from health and social care professionals, relatives or those who care for you.
- communications, for example letters and emails) between the Trust and you.

This information may be stored manually in a paper record form (i.e. your medical notes) or electronically on a computer system. When you arrive for an appointment, staff may check your details with you to ensure that our records are accurate. To assist with this, we ask that you notify us promptly of any changes to your personal details e.g. address, contact number, next of kin etc.

### **The purposes for which we use your personal data**

We may use your personal data to:

- provide you with health or social care
- help other organisations provide you with health or social care
- if you agree, to help other organisations provide you with other public services
- communicate with you and, if appropriate your next of kin, about your care
- carry out internal audits and monitor the care we provide to ensure it is of the highest standard
- monitor equality and diversity
- we may use anonymised data to help train and educate our staff. Should we use identifiable personal data we would always obtain your consent.
- respond to complaints
- respond to queries from our regulators such NHS Digital, the Care Quality Commission, the General Medical Council, the Audit Commission, the Nursing & Midwifery Council and the Health Service Ombudsman
- conduct legal claims or seek legal advice
- provide information to national registries that systematically collect data about particular conditions to help research which is only undertaken when consent is provided.

The Trust also has CCTV cameras on its premises. Further information can be found on the intranet under the CCTV policy which is available via the Trust intranet or upon request

We may also use your personal data for tasks that help us deliver NHS services better. These are listed below. You can opt-out of your information being used for the purposes listed below. You can opt out by emailing our Data Protection Officer on [medwayft.dpo@nhs.net](mailto:medwayft.dpo@nhs.net). Even if you opt out we may use anonymised personal data for the purposes below

Assess and plan the way services are delivered and paid for now and in the future

- Identify whether you are at risk from ill-health or may benefit from particular treatments
- Medical research audits carried out by external organisations, including audits that cover quality of care and financial management

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The Trust is also working with NHS Digital to ensure compliance with the National Opt-out programme on the use of NHS data from 2020.

We can only use your personal data for these purposes if we meet at least one of the conditions set out in the General Data Protection Regulations (GDPR) legislation. The table at the end of this notice details the conditions we rely on when processing personal data for each of the purposes outlined above.

In all cases we will only share the minimum amount of personal data that is required. Where possible personal information will be anonymised, so that it is not possible to identify individuals.

### Sharing your information

*Sharing your information to provide you with care*

As part of providing you with care we may need to share your information.

This includes sharing information with:

- your GP, and out of hours care providers
- NHS hospitals including but not limited to Maidstone and Tunbridge Wells, Kings College Hospital and Guys & St Thomas's
- NHS Organisations that deliver Community services including but not limited to Medway Community Healthcare and Kent and Medway NHS and Social Care Partnership Trust, our mental health provider
- Private sector organisations that deliver NHS care such as private hospitals, dentists, opticians, pharmacists and other providers such as Virgin care services who provide community care in Swale and Sheppey community hospitals
- voluntary sector organisations that deliver NHS care e.g. charities such as Wisdom Hospice and Demelza
- local authorities when social workers are part of the Care Team, or education services, children's services, housing or benefit offices
- organisations that provide diagnostic tests
- organisations that provide ambulance services e.g. NHS Ambulance Trusts

With your agreement, information can be shared with relatives, partners or friends who act as a carer for you. You can find out more about this emailing our Data Protection Officer on [medwayft.dpo@nhs.net](mailto:medwayft.dpo@nhs.net). Please see the privacy notice for carers of patients at: <https://www.medway.nhs.uk/patients-and-public/access-to-information/subject-access-requests/> We may also need to share your information with organisations that provide back office support to the Trust in its delivery of services. These organisations are known as data processors. These organisations are only able to use your personal data in accordance with the Trust's instructions:

- IT suppliers
- Telephone services suppliers
- Suppliers of web hosting services

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- Suppliers that we use to develop and improve the technology we use, including our website and electronic patient records

### *Sharing your information for other purposes*

Usually we will not share information about you and your health with other organisations unless they are involved in your care or you have agreed to the data sharing. However, there are some limited circumstances where we may share information with other organisations who are not directly involved in your care. For example:

- where there is a risk of serious harm to you or other people
- where a serious crime, e.g. an assault is being investigated or if in certain circumstances it could be prevented
- to control serious infectious diseases e.g. meningitis, tuberculosis (TB), measles
- notification of a birth or death
- where the courts have made a formal court order
- where there is a legal requirement e.g. a road traffic offence has been committed  with local authorities and particularly Medway Council under the Child Protection-Information Sharing (CPIS) scheme to protect the safety and well-being of vulnerable and looked-after children;  under section 251 of the Data Protection Act 2018 for essential medical research where it is not possible to use anonymised information and where obtaining consent is not practical. We may only share information under section 251 with bodies that are approved to receive such information. For more details please visit the Health Research Authority website;  to produce an anonymised dataset

The organisations we may share information with in these situations include:

- Organisations with public health responsibilities, like local councils and Public Health England
- Other emergency services such as police, fire and rescue services
- NHS regulators such as NHS Digital, the Care Quality Commission, the General Medical Council, the Audit Commission and the Health Service Ombudsman, so that we can respond to queries they raise with us
- NHS Digital, NHS England and our CCGs for the purposes of gathering information about the delivery of NHS services this includes the use of Secondary Uses Service (SUS) which is the single, comprehensive repository for healthcare data in England which enables a range of reporting and analyses to support the NHS in the delivery of healthcare services
- Our professional advisors, including lawyers and accountants

### **Sharing your information without consent**

We will usually tell you before we share your information however, there are times when we may need to share your information without your consent, for example:

- where there is a risk of harm to you or other people
- where a serious crime, e.g. an assault is being investigated or if in certain circumstances it could be prevented
- to control infectious diseases e.g. meningitis, tuberculosis (TB), measles

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- notification of a birth or death
- where the courts have made a formal court order
- where there is a legal requirement e.g. a road traffic offence has been committed
- where you have expressly agreed e.g. for medical insurance purposes

### How long will you keep personal data about me for?

We keep your personal information in line with our Records Retention Policy which is available on request.

### Will you transfer my data outside of the EU?

We do not usually transfer patient personal data outside of the EU. If you receive a service that would involve a transfer outside of the EU we will write to you separately about this and obtain your consent prior.

### What rights do I have?

The General Data Protection Regulation (GDPR) gives individuals rights about their personal data. These rights do not always apply. You can find out more about your rights under the GDPR through the Information Commissioner's Office <https://ico.org.uk/>

**The right to be informed** – The Trust has a duty to let you know how we are using your information.

**The right of access** – Guidance on how to access your records or to access records on behalf of someone else like a child or a deceased patient can be found at <https://www.medway.nhs.uk/patients-and-public/access-to-information/subject-access-requests/>. You can also contact our Subject Access request team for more information by [medwayft.sars@nhs.net](mailto:medwayft.sars@nhs.net) 01634 830000 extension 3495

You have the right to request that personal data about you that is factually incorrect **rectified** by being amended or supplemented with additional information.

**The right to erasure** – The majority of the time it will not be possible to erase your medical details as we would need it for on-going care and legal reasons, for more details please contact the Data Protection Officer on [medwayft.dpo@nhs.net](mailto:medwayft.dpo@nhs.net).

You have the right to request that the processing of your personal data is **restricted**.

**The right to data portability** – You have the right to data portability. Where this right applies an organisation can be required to provide you with a copy of your personal data in machine-readable format or provide it to a third party.

You have the right to **object** to us holding your personal data.

**Rights in relation to automated decision making and profiling** - automated decision making and profiling is rarely used in the NHS should you have queries please contact the Data Protection Officer on [medwayft.dpo@nhs.net](mailto:medwayft.dpo@nhs.net)

More details about your rights and how to exercise them can be found here <https://www.medway.nhs.uk/patients-and-public/access-to-information/>.



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If you do not think that we have complied with your data protection rights you can appeal to the Information Commissioner's Office. You can do this by contacting <https://ico.org.uk/>

Information Commissioner's Office Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF

Tel: 0303 123 1113

Contact information

We have also appointed the Interim Information Governance Manager as acting Data Protection Officer (DPO) for the Trust. They are contacted via email on [medwayft.dpo@nhs.net](mailto:medwayft.dpo@nhs.net).

Please contact the DPO if you have any queries about how the Trust uses your personal data, the rights that you have about your personal data or the content of this notice.

### CONDITIONS FOR PROCESSING

This table sets out the legal conditions that the Trust relies on to process your personal data for each of the purposes set out in this notice. The articles referred to in the table are in the General Data Protection Regulation, commonly known as the GDPR. If we are using special personal data we need to meet one of the conditions listed at article 6 and one of the conditions listed at article 9. If we are using personal data that is not special personal data we need to meet one of the conditions listed at article 6 (we do not need an article 9 condition).

Purpose	Condition
Provide you with health or social care	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h)
Help other organisations provide you with health or social care	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h)
With agreement to help other organisations provide you with other public services	Performance of a public task – Art 6(1)(e) Substantial public interest – Art 9(1)(g)
Communicate with you and, if appropriate your next of kin, about your care	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h)
Carry out internal audits and monitor the care we provide to ensure it is of the highest standard	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h)
Monitor equality and diversity	Compliance with a legal obligation – Art 6(1)(c) Performance of a public task – Art 6(1)(e) Substantial public interest – Art 9(1)(g) Provision of health and social care – Art 9(2)(h)
Train and educate our staff	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h)
Respond to complaints	Compliance with a legal obligation – Art 6(1)(c) Performance of a public task – Art 6(1)(e)

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<b>Purpose</b>	<b>Condition</b>
	Provision of health and social care – Art 9(2)(h)
Respond to queries from regulators like NHS Digital, the Care Quality Commission, the General Medical Council, the	Compliance with a legal obligation – Art 6(1)(c) Substantial public interest – Art 9(1)(g) Provision of health and social care – Art 9(2)(h)
<b>Service Ombudsman</b>	
Conduct legal claims or to seek legal advice	Performance of a public task – Art 6(1)(e) or pursuit of legitimate interests – Art 6(1)(e) depending on the nature of the claim and whether it is about the delivery of NHS services. Conduct of legal claims – Art 9(2)(f) Provision of health and social care – Art 9(2)(h)
Provide information to national registries that systematically collect data about particular conditions to help research	Performance of a public task – Art 6(1)(e) or pursuit of legitimate interests – Art 6(1)(f) Provision of health and social care – Art 9(2)(h) Scientific research – Art 9(2)(j)
Create anonymous or de-identified information	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h)
Assess and plan the way services are delivered and paid for now and in the future	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h)
Identify whether you are at risk from ill-health or may benefit from particular treatments	Performance of a public task – Art 6(1)(e) Provision of health and social care – Art 9(2)(h) Scientific research – Art 9(2)(j)
Research	Performance of a public task – Art 6(1)(e) Scientific research – Art 9(2)(j) In some circumstances we would rely on consent – Art 6(1)(a)
Audits carried out by external organisations, including audits that cover quality of care and financial management	Performance of a public task – Art 6(1)(e) Substantial public interest – Art 9(1)(g) Provision of health and social care – Art 9(2)(h)
Contact you about becoming a member of the Trust	Performance of a public task – Art 6(1)(e) Substantial public interest – Art 9(1)(g) Provision of health and social care – Art 9(2)(h)