

Title: **CONFIDENTIALITY POLICY**

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Owner: Director of Performance and Delivery

Author: Information Governance Officer

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Policy Sponsor: Director of Performance and Delivery

Ratified and Approved by: Information Governance Steering Group

Distribution: All staff

Compliance: Mandatory for all permanent & temporary employees, contractors, sub-contractors of and those who work jointly with North Yorkshire and York PCT

Equality & Diversity Statement: This policy has been subject to a full equality & diversity impact assessment

CHANGE RECORD			
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1. Introduction

1.1 A duty of confidentiality arises when one person discloses information to another in circumstances where it is reasonable to expect that information will be held in confidence (e.g. patient to clinician, commercial in confidence information disclosed in contract negotiations).

1.2. The purpose of this policy is to set out confidentiality requirements and consequent duties and provide a framework for North Yorkshire and York Primary Care Trust (PCT) to ensure compliance with all relevant legal obligations, standards and guidelines and professional codes of conduct.

1.3. The confidentiality of personal information of staff and patients will be achieved by the formal adoption of the DH publication 'Confidentiality: NHS Code of Practice' as the authoritative reference to be included in the PCT Confidentiality Policy and implemented throughout the PCT.

1.4. The confidentiality of non-personal information will be achieved by the implementation of the PCT Information Security Policy.

2. Scope

2.1. This policy applies to all employees of the PCT in all locations including the Non-Executive Directors, temporary employees, locums and contracted staff.

3. Responsibilities

3.1 **Chief Executive.** The Chief Executive has overall responsibility to ensure that the PCT complies with all legal obligations, relevant legislation, standards and guidelines and to sign off of the Annual Information Governance Assessment.

3.2 **Caldicott Guardian.** The Caldicott Guardian's role is:

3.2.1 Actively support work to facilitate and enable information sharing and advise on options for lawful and ethical processing of patient identifiable information.

3.2.2 Represent and champion Information Governance (IG) requirements and issues at Board/management team level.

3.3 **Director of Performance and Delivery.** Is responsible for:

3.3.1 Overseeing the PCT's Information Governance work programme.

3.3.2 Ensuring this policy and all Information Governance Policies are maintained and made available to staff.

3.3.3 Reviewing the management and accountability for Information Governance.

3.3.4 Obtaining Board approval for and implement any measures required to strengthen information governance arrangements.

3.3.5 Ensuring the Board is adequately briefed on Information Governance issues and the broader information Governance agenda.

3.4 **Directors, Senior and Line Managers.** Are responsible for ensuring that all staff are aware of and understand their obligations and duties in line with this policy.

- 3.5 **PCT Employees.** Employees are responsible for:
- 3.5.1 Ensuring that they understand and comply with their duties and responsibilities.
 - 3.5.2 Reporting breaches of confidentiality and security weaknesses in accordance with the PCT Incident Reporting procedure.
 - 3.5.3 Attending training and awareness sessions provided by the PCT.

4 Application of the Code of Confidentiality

4.1 General guidance for all persons listed in the scope of this policy is contained in the Confidentiality NHS Code of Practice (as may be updated) which is available on the PCT Intranet at:

<http://nww.nyypct.nhs.uk/Corporate/InformationGovernance/PoliciesGuidelines.htm>

4.2 In order to comply with relevant legislation and professional guidelines and ethics, the PCT will formally adopt the 'Confidentiality NHS Code of Practice' as PCT standard for implementation throughout the PCT.

4.3 Specific guidance will be published as written procedures published by directorates and departments and made available via the pct intranet so all relevant staff are effectively informed. Principles of confidentiality are to be communicated to staff via induction and mandatory training.

5 NYY PCT additions to the NHS Code of Confidentiality

5.1 The following additions complement the NHS Code of Confidentiality and will comprise the full version of this PCT Policy.

5.2 Informing Patients

5.2.1 The PCT will ensure that patients are informed of the proposed uses of their personal information and develop, maintain and monitor an information campaign for patients with special / different needs.

5.2.2 The PCT will ensure that patients and public are informed of the importance of providing accurate information and ensure staff verify patient details.

5.2.3 The PCT will regularly:

5.2.3.1 review the use of patient information

5.2.3.2 ensure that all new uses of information are brought to the attention of affected patients

5.2.3.3 update communications materials if necessary

5.3 Handling Requests

5.3.1 The PCT will document and effectively implement procedures for handling subject access requests to ensure statutory deadlines are met.

6 Training and Awareness

6.1 Information on confidentiality, points of contact for advice and training will be included in the PCT Induction Booklet which will be available to all staff via the PCT Intranet.

6.2 Staff will be made aware of this policy via line management.

6.3 The policy will be available to all staff via the PCT Intranet.

6.4 References to this policy will be included in mandatory and induction training sessions, and form the basis of IG principles for related education and training sessions.

7 Equality and Diversity

7.1 The PCT recognises the diversity of the local community and those in its employ. Our aim is therefore to provide a safe environment free from discrimination and a place where all individuals are treated fairly, with dignity and appropriately to their need. All policies and procedures are assessed in accordance with the Equality & Diversity Assessment Toolkit, the results for which are monitored centrally.

8 Data Protection Act 1998

8.1 The Data Protection Act 1998 protects personal data, which includes information about staff, patients and carers. The NHS relies on maintaining the confidentiality and integrity of its data to maintain the trust of the community. Unlawful or unfair processing of personal data may result in the PCT being in breach of its Data Protection obligations.

9 Freedom of Information Act 2000

9.1 Any recorded information which is held by, or on behalf of, the PCT may be subject to disclosure under the Freedom of Information Act 2000 and Environmental Information Regulations.

10 The Public Interest Disclosure Act 1998

10.1 The Act allows a worker to breach his duty as regards confidentiality towards his employer for the purpose of 'whistle-blowing'. A disclosure qualifying for protection under this Act is known as a 'qualifying disclosure'. The circumstances under which disclosure is allowed is limited. Employees should ensure they are aware of and comply with the specific PCT policy.

11 Records Management

11.1 Records provide evidence and information about the business activities of the PCT and are corporate assets of the PCT. This policy should therefore be retained in line with the NHS Code of Practice on Records Management (Department of Health, 2006). Compliance with this code will ensure that the PCT's records are complete, accurate and provide evidence of and information about the PCT's activities for as long as is required.

12 Review

12.1 This policy will be reviewed annually. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

13 Monitoring

13.1 Breaches in confidentiality will be reported via the PCT's incident reporting mechanisms and may be subject to investigation.

13.2 The Information Security and Data Protection Working Group will develop a routine audit programme to monitor the adequacy of systems and policies and provide reports to the IG Steering Group.

14 Discipline

14.1 Breaches of this policy may be investigated and result in the matter being treated as a disciplinary offence under the PCT's disciplinary procedure.

References

DH NHS Information Governance Guidance on Legal and Professional Obligations
Gateway Ref:8523