

## CONFIDENTIALITY PROTOCOL

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## 1. Introduction

- 1.1 This document is a Confidentiality Protocol (for the purpose of this protocol, the terms data and information are synonymous). The aim of this document is to ensure confidentiality of staff and patient information.
- 1.2 Organisations involved in providing services to the public have a legal responsibility to ensure that their use of personal information is lawful, properly controlled and that an individual's rights are respected. This balance between the need to share information to provide quality service and protection of confidentiality is often a difficult one to achieve.

## 2. Scope

- 2.1 This overarching Protocol sets out the principles for information sharing between the Norfolk and Norwich University Hospitals NHS Foundation Trust (The Trust) and Specific Third Party (Third Party).
- 2.2 This Protocol sets out the rules that all people working for or with the third party must follow when using and sharing information.
- 2.3 This Protocol will apply to any Third Party who has physical access to the Trust's premises or logical access to the Trust's electronic systems (as defined within their contract).

They could include the following:

- Hardware and software maintenance and support staff
- Cleaning, catering, maintenance, security guards and other outsourced support services.
- Consultancy and IT contract support staff
- Temporary roles (e.g. Students, Agency, Honorary)
- Locum staff
- Volunteers
- Suppliers of medical products or devices

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The above list is not intended to be exhaustive, as the Trust's relationship with Third Parties is constantly evolving and this Protocol does not aim to document all potential circumstances where access to personal information may occur. However, the principles of confidentiality and security for personal information set out in this guidance must always be followed by Third Parties.

### 3. Aims and Objectives

3.1 The aim of this Protocol is to provide a framework to establish and regulate confidential working practices. The Protocol also provides guidance to ensure the secure transfer of information, and that information shared is for justifiable 'need to know' purposes.

3.2 These aims include:

- a. Guidance on how to share personal information lawfully and securely.
- b. To explain the security and confidentiality laws and principles of information sharing.
- c. To increase awareness and understanding of the key issues.

3.3 By agreeing to this Protocol, the third party makes a commitment to:

- a. Apply the Information Commissioner's Code of Practice's 'Fair Processing' and 'Best Practices' Standards;
- b. Adhere to or demonstrate a commitment to achieving the appropriate compliance with the Data Protection Act 1998;
- c. Comply with the Confidentiality NHS Code of Practice
- d. Comply with the NHS Caldicott Principles.

3.4 The third-party will be expected to promote staff awareness of the

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confidentiality obligations. This will be made available to all staff.

### 4. The Legal Framework

4.1 The principal legislation concerning the protection and use of personal information is listed below:

- Data Protection Act 1998 and the General Data Protection Regulation
- The Common Law Duty of Confidence
- Human Rights Act 1998 (article 8)
- The Freedom of Information Act 2000
- The Computer Misuse Act 1990

### 5. Third Party Code of Practice

To treat as confidential all information which may be derived from, or be obtained, or which may come into the possession of the Third Party, or an employee, servant or agent, or sub-contractor of the Third Party.

To provide all necessary precautions to ensure that all such information is treated as confidential by the Third Party, his employees, servants, agents or sub-contractors.

- 5.1 Information should only be accessed when there is a specific purpose to do so and in line with the Data Protection principles and the NHS Caldicott principles.
- 5.2 The Third Party should be able to demonstrate compliance towards the New General Data Protection Regulation or its assurance programme to achieve this compliance by May 2018.
- 5.3 Information should be shared only where appropriate consent has been obtained or when there is a legal duty to do so such as a court order.
- 5.4 Staff should only have access to personal information on a justifiable **need to know** basis, in order for them to perform their duties in connection with the services they are there to deliver.

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- 5.5 All Third Party staff should have received **training in** Information Governance and be fully aware of their responsibilities to maintain the security and confidentiality of personal information. Staff contracts also contain a clause on confidentiality and all employees are bound by this.
- 5.6 The Trust will expect the third party to have an escalation process in place for problem resolution relating to any breaches of security and/or confidentiality of personal information by the Third Party's employee and/or any of its agents and/or sub-contractors.
- 5.7 Third Party staff must report any observed or suspected data security/confidentiality incident, including weaknesses identified in processes, systems, design or operational procedures that are likely to result in an information security or confidentiality breach. This also applies to the potential disclosure of confidential personal information.
- 5.8 The Trust will be indemnified against any loss arising under the Data Protection Act 1998 caused by any action, authorised or unauthorised taken by the Third Party, his employees, servants, agents or sub-contractors.

### 6. Freedom of Information

The Freedom of Information Act 2000 (FOI) applies to all the Trust's activities.

- 6.1 As a Third Party providing services to the Trust, you should be aware of the Trust's obligations and its responsibilities under the FOI to provide on request, access to recorded information held by the Trust. One of the consequences is that information that the Trust holds about your organisation may be subject to disclosure in response to a request, unless the Trust decides that one of the various statutory exemptions applies.

### 7. Review Arrangements

- 7.1 The Information Governance Team will formally review this Protocol on a three-yearly basis, unless new or revised legislation or national guidance necessitates an earlier review.

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- 7.2 Any of the signatories can request a review at any time where a joint discussion or decision is necessary.

### 8. Agreement to Terms and Conditions of Protocol

I understand that I am bound by a duty of confidentiality as defined by the NHS Confidentiality Code of Conduct and agree to adhere to the terms and conditions of this Protocol between The Trust and the Third Party to comply with the requirements of the Data Protection Act 1998 and the Caldicott principles.

**Authorised Signature**.....

**Name of Individual**.....

**Position in Organisation**.....

**Date Signed**.....