University Hospitals of Morecambe Bay NHS Foundation Trust

Document Type: **Policy**	**Unique Identifier:** CORP/POL/015
Document Title: **Data Protection and Confidentiality Policy**	**Version Number:** 6.0
	Status: Ratified
Scope: Trust Wide	**Classification:** Organisational
Author / Title: Fiona Prestwood – Information Governance Manager	**Responsibility:** Innovation, Information and Informatics (I^3) Service
Replaces: Version 5.4, Confidentiality, Corp/Pol/015	**Head of Department:** Andy Wicks – Chief Information Officer
Validated By: Information Governance and Data Quality Group	**Date:** 11/06/2018
Ratified By: Procedural Documents and Information Leaflet Group	**Date:** 06/06/2018
Review dates may alter if any significant changes are made	**Review Date:** 01/06/2021

Which Principles of the NHS Constitution Apply? **Please list from principles 1-7 which apply** 3	**Which Staff Pledges of the NHS Constitution Apply?** **Please list from staff pledges 1-7 which apply** 3

Does this document meet the requirements of the Equality Act 2010 in relation to Race, Religion and Belief, Age, Disability, Gender, Sexual Orientation, Gender Identity, Pregnancy & Maternity, Marriage and Civil Partnership, Carers, Human Rights and Social Economic Deprivation discrimination? **Yes**

Document for Public Display: Yes

Reference check completed by Joanne Phizacklea, 4.7.18.

To be completed by Library and Knowledge Services Staff

Contents

BEHAVIOURAL STANDARDS FRAMEWORK

To help create a great place to work and a great place to be cared for, it is essential that our Trust policies, procedures and processes support our values and behaviours. This document, when used effectively, can help promote a workplace culture that values the contribution of everyone, shows support for staff as well as patients, recognises and celebrates the diversity of our staff, shows respect for everyone and ensures all our actions contribute to safe care and a safe working environment - all of which are principles of our Behavioural Standards Framework.

Behavioural Standards Framework – Expectations 'at a glance'

1. SUMMARY

This policy applies to all personal data whether written, recorded on a computer, in a visual or audio format or spoken. This policy should be read and understood by all staff including those from non NHS bodies (contractors) who are engaged in Trust business and who receive, record, store or otherwise come across personal data.
This policy informs staff and contractors of the correct procedures for maintaining the confidentiality of personal confidential data.

2. PURPOSE

The NHS is committed to the delivery of a first class confidential service. This means ensuring that all personal data is processed fairly, lawfully and as transparently as possible so that the public can:

- understand the reasons for processing personal confidential data
- give their consent for the disclosure and use of their personal confidential data
- gain trust in the way the NHS handles personal confidential data and
- understand their rights to access personal data held about them

This policy has been written to meet the legal, statutory and regulatory requirements of

- Data Protection Legislation (General Data Protection Regulation and Data Protection Act 2018)
- The Human Rights Act 1998[2]
- The Computer Misuse Act 1990[3]
- The Copyright Designs and Patents Act[4]
- Confidentiality: NHS Code of Practice[5]
- NHS Records Management Code of Practice[6]
- Access to Health Records 1990[7]
- Crime and Disorder Act 1998[8]
- Freedom of Information Act 2000[9]
- Caldicott Principles[10]

Implementation of this policy will lead to their obligations to
- Protect patient information
- Inform patients effectively
- Provide choice to patients
- Monitor and improve personal compliance

3. SCOPE

This policy is for all staff, contractors and third parties who have access to personal identifiable data.

4. POLICY

4.1 Duties

The **Chief Executive** has overall responsibility for ensure that confidentiality is maintained at all times and all disclosures conform to policy

The **Chief Information Officer** has responsibility for Informatics Strategy, Information Governance and Health Records Management

The **Caldicott Guardian** has responsibility for advising staff and ensure that adequate arrangements are in place to protect personal confidential data

The **Senior Information Risk Owner** owns the organisation's overall information risk policy and risk assessment processes and ensures they are implemented consistently

The **Data Protection Officer** is responsible for ensuring the organisations compliance with data protection legislation

The **Information Governance Team** have responsibility for maintaining the currency of the policy and providing advice and guidance on requests or issues relating to confidentiality and data protection.

The **Information Governance and Data Quality Group** will ensure that policy is regularly updated, review incidents and lessons learned, receive audits of staff practice and monitor staff uptake of mandatory Information Governance Training.

Line Managers are responsible to ensure that members of staff follow all policies relating to confidentiality and maintain standards. This includes external contractors and volunteers that work within the area they are responsible for.

Information Asset Owners and Administrators are responsible for ensuring that all staff understand and apply the principles of the legislative, statutory and regulatory requirements relating to confidentiality, information security and data protection.

All staff see section 5.3

4.2 Definitions

Personal Identifiable Data (PID) or Personal Data is any information which relates to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier, such as name, identification number, location data or online identifier (personal data under Data Protection Legislation). It also includes more sensitive personal data (Special Categories of Personal Data under Data Protection Legislation) such as is ethnic origin, genetics biometrics (where used for ID purposes); health and sexual orientation.

Examples of PID

		Staff	
Surname	Sex	Surname	Sex
Forename	NHS number	Forename	Staff number
Initials	National Insurance Number	Initials	National Insurance Number
Address	Ethnic group	Address	Ethnic group
Date of Birth	Local Identifier (Hospitals No)	Date of Birth	Salary details
Other dates (death, diagnosis)	Telephone No	Postcode	Telephone no

Postcode	Occupation	Occupation

Confidentiality and Duty of Confidence this arises when one person (e.g. a patient) discloses information to another (e.g. a clinician) in circumstances (e.g. consultation) where it is reasonable to expect that the information is to be held in confidence and is derived from case law (common law of confidentiality). It is a legal obligation, a requirement within professional codes of conduct and included in all NHS employment contracts. All staff working in the NHS are bound by a legal duty of confidence to protect the personal data they may come into contact with during the course of their work**,** keeping personal data strictly confidential.

Anonymised Information is where all elements of potential identifiers are removed completely so that it does not identify an individual**.**

Pseudonymised Information is where data is anonymised but retains a single key such as a code or reference number, known only to the provider of the information so that when it is shared, the provider can link back to the individual. This can be classed as personal data if the pseudonym can be attributed to an individual

Aggregated data is where data and information is combined to present information in a summarized format to provide high level reporting.

Explicit Consent is obtained when the individual has clearly agreed for information to be disclosed. This is a clear and voluntary indication of preference or choice given verbally or in writing, given freely where the options and consequences have been made clear.

Implied Consent is an agreement which has been signalled by patient behaviour e.g. where a patient has agreed to be referred for treatment, by implication they have also consented to relevant medical information being disclosed to support this process

Disclosure is to provide or give access to data. Under data protection legislation the Trust can disclose information if they have an appropriate lawful basis defined under the General Data Protection Legislation.

Processing data is collecting, recording, viewing, carrying out an operation and sharing personal data

4.3 Staff Responsibilities

All staff are expected to provide a confidential and secure service and should

- understand their obligations defined in the Confidentiality: NHS Code of Practice[5] "Confidentiality Model" – see section 4.3.1
- consider the Caldicott Principles – 2013[10] – see section 4.3.2
- consider their obligations under Data Protection Legislation (General Data Protection Regulation and Data Protection Act 2018) – see section 4.3.3
- consider the Health and Social Care Information Centre (HSCIC) Guidance or Confidentiality Rules[11] – September 2013 – see section 4.3.4

4.3.1 Staff Responsibilities when Working with Personal Data

The "Confidentiality Model" in Confidentiality: NHS Code of Practice[5] sets out 4 main

requirements and incorporates data protection legislation obligations

PROTECT
- Fully aware at all times of their responsibilities regarding confidentiality
- Record personal data accurately and consistently
- Keep personal data private
- Keep personal data physically secure
- Disclose and use personal confidential data with appropriate care
- Challenge and verify where necessary the identity of any person who is making a request for confidentiality information and determine the validity of the their reason for requiring that information

INFORM
- Inform patients effectively, “No surprises” as to how their information is being used
- Check where practicable that literature on confidentiality and information disclosure have been read and understood
- Be clear that personal data is recorded or health records accessed
- Be clear when disclosing information with others
- Check patients are aware of choice in respect of how their information may be used or disclosed
- Check patients have no concerns or worries, answering where practicable questions and queries
- Respect the rights of patients and facilitate them in exercising their rights to have access to their health record

PROVIDE CHOICE
- Allow patients to decide whether their information can be disclosed or used in particular way
- Ask before personal data is used in a way that does not directly contribute or support delivery of their care
- Respect decisions to restrict the disclosure or use of information , except where exceptional circumstance apply
- Communicate to ensure understanding of implications should they choose to agree or restrict the disclosure of information

IMPROVE
- Participate in mandatory training to inform and update on confidentiality issues
- Participate in audit / review of working practices to identify areas for improvement with regards to patient confidentiality and to implement any improvement measures identified
- Report any actual or suspected breaches of confidentiality to the line manager and via the incident reporting system

It is strictly forbidden for staff to view or disclose any information that
- Relates to their own family, friends, or acquaintances unless they are directly involved in the patient’s clinical care
- Relates to their own family, friends or acquaintances employed by the Trust unless they are directly involved in their staff management

Actions of this kind will be viewed as breach of confidentiality and are likely to result in disciplinary action.

4.3.2 Caldicott Principles

Ensuring that there is an appropriate balance between the protection of patient information and the use and sharing of information to improve patient care.

1. Justify the purpose(s)
2. Don't use personal confidential data unless it is absolutely necessary
3. Use the minimum necessary personal confidential data
4. Access to personal confidential data should be on a strict need-to-know basis
5. Everyone with access to personal confidential data should be aware of their responsibilities
6. Comply with the law
7. The duty to share information can be as important as the duty to protect patient confidentiality

Detailed guidance can be found in Appendix 1

4.3.3 Data Protection Legislation

The General Data Protection Regulation and Data Protection Act 2018 sets out rules for people who use or store data about living people and gives rights to those people whose data has been collected.

The principles are as follows;

a) processed lawfully, fairly and in a transparent manner in relation to individuals;
b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;
c) adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;
d) accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay;
e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods insofar as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes subject to implementation of the appropriate technical and organisational measures required by the GDPR in order to safeguard the rights and freedoms of individuals; and
f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Individuals have rights, not all rights are absolute and only apply in certain circumstances;

1) The right to be informed
2) The right of access
3) The right to rectification
4) The right to erasure
5) The right to restrict processing
6) The right to data portability
7) The right to object

8) Rights in relation to automated decision making and profiling

Detailed guidance can be found in Appendix 2

4.3.4 Confidentiality Rules (NHS Digital)[11]

Guidance for those processing personal data in the relation to the provision of health or social care activities.

Rule 1 - Confidential information about service users or patients should be treated confidentially and respectfully

Rule 2 - Members of a care team should share confidential information when it is needed for the safe and effective care of an individual

Rule 3 - Information that is shared for the benefit of the community should be anonymised

Rule 4 - An individual's right to object to sharing of confidential information about them should be respected
Rule 5 - Organisations should put policies, procedures and systems in place to ensure the confidentiality rules are followed

4.4 Best Practice

4.4.1 Make Sure Information is Shared with the Right People

- Check that the caller (telephone or in person) is who they say they are. There can be a significant risk of harm to a patient through impersonation by those seeking information improperly
- Seek official identification or check identity by calling them back (using an independent source for the phone number).
- Check also that the caller has a legitimate right to have access to that information.
- All possible steps must be taken to ensure that patient information is not divulged over the telephone to anyone without authority. Where relatives telephone on the patient's behalf information should not be divulged without the consent or knowledge of the patient. Use an mutually agreed password to support identification
- Requests for information from the Police should always be referred to the Patient Records manager.
- Requests from the media should always be declined and referred to Trust Communications Team (Trust Communications Lead, c/o Trust HQ, WGH ext. 46685), in all circumstances
- If in doubt, check with a line manager, or person in charge of the patient's care.

4.4.2 Have the Staff or Patient given Permission to the Use and Disclose of their Personal Data

- Ensure that patients and staff have given their consent to the disclosure of their personal confidential data this being either : -
- Any exceptions may require written consent from the individual unless they are unable to provide consent (e.g. they are unconscious), then the health professional in charge of the patient's care must be consulted
- If the purpose is not directly concerned with direct healthcare, do not assume consent, e.g. contracting between healthcare organisations. Explicit consent may be required or an alternative to identifiable data be used e.g. anonymisation or pseudonymisation

- If consent cannot be obtained, yet the public good outweighs issues of privacy, Section 60 of the Health and Social Care Act 2001[12] provides interim power so patient data needed to support clinical audit, record validation and research can be used without the consent of the patient.
- Patients and staff should be aware that their personal data may be made available to other members of the health care team, other aspects of Trust business such as clinical governance or clinical audit or another organisation in provision of their healthcare
- Patients and staff have the right to object to the use and disclosure of their personal data and should be aware of the fact. They should be informed of the implications of objecting, e.g. clinician's may be unable to treat them safely, or provide continuity of care, without having the relevant condition and medical history (see Appendix 2 for more details on how to make a request)

4.4.3 Share the Minimum Necessary to Provide Safe Care or Satisfy other Purposes

- It should meet the need to provide safe care but not be insufficient that omitting the personal data would cause harm.
- Consider how much information is needed before disclosing. Simply providing the whole medical file is generally needless and inefficient (for both parties) and is likely to constitute a breach of confidence.

4.4.4 Supporting Individuals Rights

- Inform individuals about the collection and use of their data at the time of collection or within a reasonable period of obtaining their personal data, this is documented in the Trust's Privacy Notice available on UHMB external website 'How we use your information'
- Enable individuals to exercise their rights where applicable but where their rights cannot be exercised provide them with an justifiable reason to why the right has not been upheld

4.4.5 Information / Data Sharing Agreements

- Set out standards and procedures that apply when disclosing patient data to other organisations and agencies
- Staff must work within the standards and procedures defined within the agreements

4.5 Transferring / Transporting Personal Data

Staff must ensure that they transfer and transport personal data in a safe and secure manner as detailed below.

4.5.1 Email

- Personal data must not emailed outside of the Trust unless it is either sent via a 'trusted link' (see Appendix 5 for guidance) or encrypted either using password protected documents or using secure email (Egress Switch)
- Remove patient identifiers and minimise the amount of information included in the email, restrict to RTX number and initials internally or restrict to NHS number where RTX is not known or required by recipient of the email
- Only send to recipients who have a legitimate need for the information, check the email address and if necessary send a test email
- Personal data should not be contained in the title or body of an email

- If the email is required to be sent external to the Trust then the above two points must apply and it must be sent by Secure Encrypted email using the Trust's secure email system or from an NHS Mail account to an NHS Mail account. Contact the Information Governance Team for more details

4.5.2 Fax

- Remove patient data from any faxes unless you are faxing to a known secure and private area (Safe Haven)
- Faxes should always be addressed to named recipients
- Always check the fax number to avoid misdialling and ring the recipient to check that they have received the fax
- If your fax machine stores numbers in memory, always check that the number stored is correct and current before sending information
- The recipient should be contacted to ensure that they are available to receive a fax and arrangements made for the recipient to confirm that the document has been received

4.5.3 Internal Mail

- All correspondence should be addressed to a named recipient. This means personal data should be addressed to a person, a post holder, a consultant or a legitimate Safe Haven, but not to a department, a unit or an organisation. In cases where the mail is for a team it should be addressed to an agreed post holder or team leader
- Should only be sent in a securely sealed envelope or bag, and marked accordingly, e.g. 'Confidential' or 'Addressee Only', as appropriate

4.5.4 External Mail

- All correspondence should be addressed to a named recipient. This means personal identifiable data should be addressed to a person, a post holder, a consultant or a legitimate Safe Haven, but not to a department, a unit or an organisation
- All envelopes containing patient information should be clearly and fully addressed and securely sealed. The sender's address should be written on the back of the envelope
- Special care should be taken with personal data sent in quantity, such as case-notes, or collections of patient records on paper, floppy discs or other media. These should be sent by Special Delivery or by NHS courier, to safeguard that these are only seen by the authorised recipient(s). it is also advisable to obtain a receipt as proof of delivery e.g. patient records to a solicitor
- Case notes and other bulky material should only be transported in the approved boxes/bags and never in dustbin sacks, carrier bags or other containers. These containers should not be left unattended unless empty, when awaiting collection they should be in a secure area e.g. ideally locked. The containers are only to be taken and transported by the approved carrier
- Electronic media should be encrypted and/or password protected. Advice on how to password protect files is available from the I^3 Service Desk
- Blood samples etc. should also only be transported within the correct authorised containers and should not be left lying around or when they have been delivered to the laboratory

4.5.5 Mobile Devices

- Patient data must only be stored on Trust equipment and not on personally owned mobile devices (laptops, PC, smartphones or tablets) this includes devices that are part of the Trust BYOD (Bring Your Own Device) Scheme

- No information should be kept on the hard drive of PCs due to the risk of theft and potential breach of confidentiality. Files should only be stored on the network where they will be backed up centrally and stored safely and securely
- Only approved encrypted memory sticks should be used and patient data should only be transferred if absolutely necessary to memory sticks

4.5.6 Voicemail / Answer Phone Messages

- When leaving voicemail or answerphone messages you must consider confidentiality and leave as little information as possible, for example

  Hello, this is a message for < name>. Could you please phone < number> and speak to < full name>. Thank you.

  For enquiries or appointments

  "Hello, this is a message for <name>. I am calling about an enquiry you made today/yesterday. Could you please phone <number> and speak to <full name>. Thank you
  or
  "Hello, this is a message for <name>. I am calling about your appointment. Could you please phone <number> and speak to <full name>. Thank you
- Always make sure we are acting in accordance with the individuals wishes, where possible ask the individual if they are happy to take calls and for messages to be left or even if they are happy with someone else taking a message or dealing with request, always remember to document this

Detailed guidance can be found in Appendix 3

4.6 Handling or Storing Personal Confidential Data

4.6.1 Offices and Works Areas

- Access to rooms and offices where information is held need to be controlled. Where possible, doors should be locked with keys or keypads
- Always query the status of strangers

4.6.2 Manual or Paper (e.g. handover sheets, case notes, staff confidential reports)

- Personal data must not be taken off site without authorisation
- All records should be formally booked in and out as part of the Trust's record management
- Track all transfers
- Case notes and all patient information must be stored securely in lockable desk drawers or filing cabinets within rooms which should be locked when unattended. Staff must not leave case notes in boxes or in corridors. Transport arrangements must follow Trust procedures
- Printouts and faxes must not be left unattended and must be filed appropriately and locked when not in use
- Securely store closed records when not in use

4.6.3 Electronic Devices

- Always log out or lock screens when not in use, never leave unattended and logged in

- Never share login or reveal security measures
- Always clear the screen of previous patient data before seeing another
- Discs, tapes and removable media must not be left unattended and must be filed appropriately and locked when not in use
- Patient data must only be stored on Trust equipment and not on personally owned laptops, home desktop computers, smartphones or tablets
- No information should be kept on the hard drive of PCs due to the risk of theft and potential breach of confidentiality. Files should only be stored on the network where they will be backed up centrally and stored safely and securely
- Computers must not be transferred between users or disposed of other than through the I^3 Service
- Only approved encrypted memory sticks should be used and unless absolutely necessary patient identifiable information must not be transferred to memory sticks

4.7 Home Working or Working Away from the Office Environment

It is sometimes necessary for employees to work at their own home or outside of the office environment. This must be authorised via an appropriate Senior Manager within the department. If authorised, remember that there is personal liability under Data Protection Legislation and your contract of employment for breach of these requirements.

- No records which contain personal or sensitive data should be taken off site unless authorised to do so
- Must only be taken off site on a Trust encrypted device e.g. Laptop or encrypted memory stick
- For paper records, a record should be made of who has taken, why they have taken and when the record will be returned
- Ensure any personal data is in sealed containers prior to them leaving the Trust buildings
- Ensure records or devices are put in the boot of the car or carried on your person while being transported from your work place to your home or another location and should not be left in plain sight
- Whilst away ensure the records are kept secure and confidential. Make sure other people such as family, friends, colleagues or patients are not be able to see the content or outside folder of the records
- You should not use personal home computers to process or store other personal data
- Returning records must returned in the secure manner they were transported outside of the Trust and the record updated accordingly

4.8 Disposal of Personal Confidential Data

All confidential information must be disposed of in a secure and appropriate manner

4.8.1 Paper-based Personal Confidential Data and Computer Print Outs

- Always use ‘Confidential Waste’ bins, sacks or shredders to dispose of personal confidential data
- Keep the waste in a secure place until it can be collected for secure disposal
- If you do not have a ‘Confidential Waste’ bins in your area, contact the Estates and Facilities department to arrange delivery

4.8.2 Floppy Discs, CDs or DVDs

Floppy discs, CD or DVDs containing confidential information must be securely destroyed. Contact the I[3] Service Desk who will advise you regarding secure disposal

4.8.3 Computer Files Stored on the Trust Network

Computer files with confidential information no longer required must be deleted from the server in line with the NHS Records Management Code of Practice 2016

4.8.4 Computer Hard Disks

Computer hard disks must be destroyed and disposed of by the Trust contracted equipment Disposal Company. The company will dispose of the equipment on Trust premises and will provide a full documentation of the disposal process

4.9 Breaches of Confidentiality

Any potential or actual breaches of confidentiality must be reported to the member of staff's line manager, Information Governance department and recorded on the incident management system as soon as practicable possible.

An investigation will be conducted, either by the line manager or in conjunction with Information Governance and will reported to the appropriate governance committee. This may result in the matter being treated as a disciplinary offence under the organisations disciplinary procedure and depending on severity may also be reportable to Department of Health and Information Commissioner's Office (ICO), with initial notification within 72 hours.

Reported breaches to the ICO may result in the organisation receiving an enforcement notice or ordered to pay a monetary penalty for a serious breach of the Data Protection Legislation depending on the breach.

4.10 Contacts

Information Governance	Information.Governance@mbhci.nhs.uk
I[3] Service Desk	servicedesk@mbhci.nhs.uk Extension: 46000 or 01524 516000

5. ATTACHMENTS	
Number	**Title**
1	Caldicott Principles
2	Health And Social Care Information Centre Guidance – Confidentiality Rules
3	Guidance on leaving voicemail / answer phone messages
4	Equality and Diversity Impact Assessment Tool

6. OTHER RELEVANT / ASSOCIATED DOCUMENTS	
Unique Identifier	**Title and web links from the document library**
Corp/Pol/116	Acceptable use policy for information communication and technology (ICT) systems and equipment http://uhmb/cs/tpdl/Documents/CORP-POL-116.docx
Corp/Pol/052	Clinical records management policy http://uhmb/cs/tpdl/Documents/CORP-POL-052.docx

7. SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS References in full	
No.	References
1	Great Britain (2018). Data Protection Act 2018. Available from: http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted (accessed 4.7.18)
2	European Union (2016) General Data Protection Legislation 2016. Available from: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN (accessed 4.7.18)
2	Great Britain (1998). Human Rights Act 1998. Available from: www.legislation.gov.uk/ukpga/1998/42 (accessed 4.7.18)
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4	Great Britain (1988). Copyright, Designs and Patents Act 1998. Available from: www.legislation.gov.uk/ukpga/1988/48 (accessed 4.7.18)
5	DHSC (2003). Confidentiality: NHS Code of Practice. Available from: www.gov.uk/government/publications/confidentiality-nhs-code-of-practice (accessed 4.7.18)
6	DHSC (2006). Records Management: NHS Code of Practice. Available from: https://www.gov.uk/government/publications/records-management-nhs-code-of-practice (accessed 4.7.18)
7	Great Britain (1990). Access to Health Records Act 1990. Available from: https://www.legislation.gov.uk/ukpga/1990/23/contents (accessed 4.7.18)
8	Great Britain (1998).Crime and Disorder Act 1998. Available from: www.legislation.gov.uk/ukpga/1998/37 (accessed 4.7.18)
9	Great Britain (2000). Freedom of Information Act 2000. Available from: https://www.legislation.gov.uk/ukpga/2000/36/contents (accessed 4.7.18)
10	DoH (2013). Information: To Share or not to Share. Available from: https://www.gov.uk/government/publications/the-information-governance-review (accessed 4.7.18)
11	Health and Social Care Information Centre (2013). A guide to confidentiality in health and social care. Available from: https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/a-guide-to-confidentiality-in-health-and-social-care (accessed 4.7.18)
12	Great Britain (2001). Health and Social Care Act 2001. Available from: http://www.legislation.gov.uk/ukpga/2001/15/contents (accessed 4.7.18)

8. DEFINITIONS / GLOSSARY OF TERMS	
Abbreviation or Term	**Definition**
Confidentiality	can be defined as 'protecting information from unauthorised disclosure". The British Medical Association (BMA) defines confidentiality as the "principle of keeping secure and secret from others information given by or about an individual in the course of a professional relationship".
Person Identifiable Information	is defined as all items of information with relate to an attribute of an individual should be treated as potentially capable of identifying patients and hence should be appropriate protect to safeguard confidentiality" (Caldicott Committee Report on the Review of Patient Identifiable Information 1997). This also relates to staff.
Information Format	this list is not exhaustive but includes • Paper records such as medical notes, employees records etc. • CD, computer file, printout, DVD photograph or even word of mouth • Information stored on portable devices such as laptops, palmtops, mobile phones and digital cameras • Audit papers • Trust information about its own working such as meeting papers, incident report forms etc. Verbal such as conversations
Anonymised Information	does not identify an individual directly and which cannot reasonably be used to determine identification. Anonymisation requires the removal of name, address, full postcode, or any other combination of detail that identifies a person
Pseudonomyised Information	refers to data in which the most identifying fields within the record are replaced by pseudonyms or artificial identifiers to disguise the patient identity. Unlike anonymised data, pseudonymisation allows 'reversal' if necessary and for legitimate purposes. It is widely used when patient information needs to be interrogated for 'secondary purposes' but patient identity needs protecting.
Explicit or Express Consent	is obtained when the individual has clearly agreed for information to be disclosed. This is a clear and voluntary indication of preference or choice given verbally or in writing, given freely where the options and consequences have been made clear.
Implied Consent	is in place when agreement has been signalled by patient behaviour e.g. where a patient has agreed to be referred for treatment, by implication they have also consented to relevant medical information being disclosed to support this process
Disclosure	is the divulging of data, or provision of access to data
Unlawful or Inappropriate Disclosure	where information is shared / disclosed without the necessary consent or mechanisms specified in policy
Healthcare Team	includes a range of clinical and social care professionals as well as administrative and medical records staff.

9. CONSULTATION WITH STAFF AND PATIENTS		
Name	**Job Title**	**Date Consulted**
Fiona Prestwood	Informatics Governance Manager	
Carol Hogarth	Information Governance Analyst	
Marie Kincart	Information Governance Analyst	

10. DISTRIBUTION PLAN	
Dissemination lead:	Fiona Prestwood
Previous document already being used?	Yes
If yes, in what format and where?	Trust Procedural Document Library
Proposed action to retrieve out-of-date copies of the document:	Library to remove and replace with document on Trust Procedural Document Library
To be disseminated to:	
Document Library	
Proposed actions to communicate the document contents to staff:	Include in the UHMB Friday Corporate Communications Roundup – New documents uploaded to the Document Library

11. TRAINING Is training required to be given due to the introduction of this policy? *Yes / No * Please delete as required		
Action by	**Action required**	**Implementation Date**

12. AMENDMENT HISTORY				
Version No.	**Date of Issue**	**Page/Selection Changed**	**Description of Change**	**Review Date**
1	December 2006	2.2	Updated types of portable devices Corrected wording to 'company documents/files'	
		Document Title page	Amend title to read 'University Hospitals of Morecambe bay NHS Trust'	
		3.1	Changed Caldicott Guardian name to Mr Peter Dyer	
2	May 07	Policy Title	Change policy title to 'Confidentiality – Code of Practice'	
3	January 09		Review date amended	March 2010
4	July 2010		Policy updated to Trust format	March 2013
4.01	December 2013	All sections	Policy reviewed and revised	
4.02	January	All Sections	Updated to reflect	January 2016

	2014		comments from consultation	
4.2	22 January 2014		Policy approved and ratified Procedural Document Group	22 January 2016
4.3	04 September 2014	All sections	Updated Health Informatics to I^3 and include examples	22 January 2016
5.0	January 2015	Section 4.9	Update to include details around ICO fines	01 September 2017
5.1	August 2016	Section 4.5.6 Appendix 3	Added section for leaving voicemail or answer phone messages and guidance in Appendix 3	01 September 2017
5.2	18/08/2017	Page 1	Review Date extended to 01/12/2017 – form 150/2017	01/12/2017
5.3	04/10/2017	Page 4	BSF page added	01/12/2017
5.4	20/10/2017	Page 1	Review Date extended (form 215/2017)	01/04/2018
6	May 2018	All sections	Updated to reflect changes in Data Protection legislation	01/06/2021

Appendix 1: Caldicott Principles

1. **Justify the purpose(s)**

   Every proposed use or transfer of personal confidential data within or from an organisation should be clearly defined, scrutinised and document, with continuing uses regularly review by an appropriate guardian

2. **Don't use personal confidential data unless it is absolutely necessary**

   Personal confidential data items should not be included unless it is essential for the specified purpose(s) of the flow. The need for the patients to be identified should be considered at each stage of satisfying the purpose(s)

3. **Use the minimum necessary personal confidential data**

   Where use of personal confidential data is considered to be essential, the inclusion of each individual items of data should be considered and justified so that the minimum amount of personal confidential data is transferred or accessible as is necessary for a given function to be carried out

4. **Access to personal confidential data should be on a strict need-to-know basis**

   Only the individuals who need access to personal confidential data should have access to it, and they should only have access to the data items that they need to see. This may mean introducing access controls or splitting data flows where one data flow is used from several purposes

5. **Everyone with access to personal confidential data should be aware of their responsibilities**

   Actions should be taken ensure that those handling personal confidential data – both clinical and non-clinical – are made fully aware of their responsibilities and obligations to respect patient confidentiality

6. **Comply with the law**

   Every use of personal confidential data must be lawful. Someone in the organisation handling personal confidential data should be responsible for ensuring that the organisation complies with legal requirements

7. **The duty to share information can be as important as the duty to protect patient confidentiality**

   Health and social care professionals should have the confidence to share information in the best interests of their patients within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies

Appendix 2: Individuals Rights Under Data Protection

- **Right to be informed** individuals have the right to be informed about the collection and use of individual's information including the reasons for processing the data, how long the information will be held for and who it will be shared with.
  For **patients** this is available via the Trust's Privacy Notice external website "How we use your information"
  For staff this is available on the Trust intranet on the Workforce section
- **Right of access** individuals have the right to see or be given a copy of their personal information held by the Trust. To gain access to their information individuals will need to make a Subject Access Request. The Trust aims to respond within one month from receipt of the individuals request at no charge but there may be some limited circumstances where this can be extended to two months and administrative charge can be requested.
  Subject access request forms are available on Trust's Privacy Notice external website "How we use your information" with contact details listed for the medical records department.
- **Right to rectification**. We have a duty to ensure individual's information is accurate and up to date and to make certain we have the correct contact and treatment details about them. If individuals believe any information is not accurate, they can make a request for us to correct the record via contacting the Data Protection Officer at DataProtectionOfficer@mbht.nhs.uk
- **Right to erasure** is known as 'the right to be forgotten'; this right only applies in certain circumstances and is generally not applicable for healthcare records. This is because health and care service providers need an accurate record in order to provide further treatment.
- **Right to restrict processing** individuals have a right to request the Trust restrict the processing of data where individuals have contested the accuracy of their data or feel that their data has been unlawfully processed. This restriction will only be temporary whilst a decision is made about rectification or lawful processing.
  A request to restrict processing can be made via contacting the Data Protection Officer at DataProtectionOfficer@mbht.nhs.uk
- **Right to data portability** allows individuals to obtain and reuse their personal data from certain organisations for their own purposes across different services. This right only applies where individuals have given consent to the processing of their information or where there are automated decision making processes in place. As this is not an absolute right this does not apply with healthcare records held by this Trust.
- **Right to object** individuals have the right to object to the processing of their data in a number of different circumstances, in particular profiling, direct marketing and processing for purposes of scientific/historical research and statistics. This is documented in more details in Information Sharing Policy.
  A request to object can be made via contacting the Data Protection Officer at DataProtectionOfficer@mbht.nhs.uk
- **Rights in relation to automated decision making and profiling** is where a decision is made solely by automated means with no human involvement. This also included profiling. Profiling evaluates certain things about an individual. The Trust does not use processes which include solely automated decision making or profiling.

  For any further details or advice contact the Information Governance Team via email Information.Governance@mbhci.nhs.uk

Appendix 3: Health And Social Care Information Centre Guidance – Confidentiality Rules

Rule 1 - Confidential information about service users or patients should be treated confidentially and respectfully

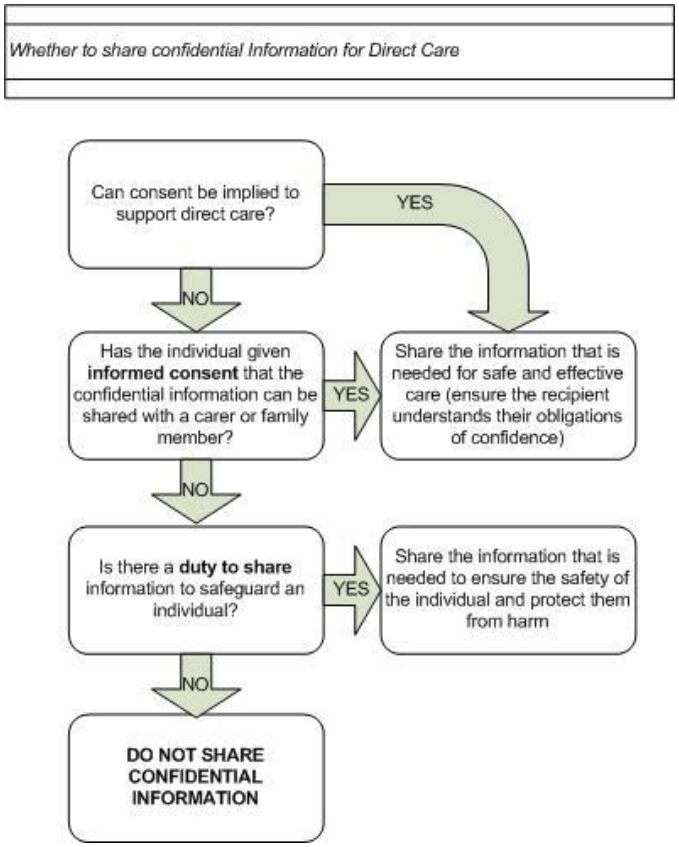
It is right to respect people's privacy and wrong to betray their confidences. Prying and gossip are recognised as unethical in all settings.

- Maintaining trust and respect should always be a priority
- Professional confidentiality obligations should always be respected
- To retain an individual's trust and to support safe care, the care record should be as complete as possible, accurate and fit for purpose

Rule 2 - Members of a care team should share confidential information when it is needed for the safe and effective care of an individual

It is vitally important that health and social care professionals understand they have a duty to share confidential information in the best interests of an individual in their care, when they are providing 'direct care', which is expected to result in better or safer care. Individuals could be put at risk if confidential information is not shared. However, where it is clearly beneficial to share for 'direct care' purposes, confidentiality and privacy still apply. Only those that have a clear 'need to know' should have access to the relevant confidential information.

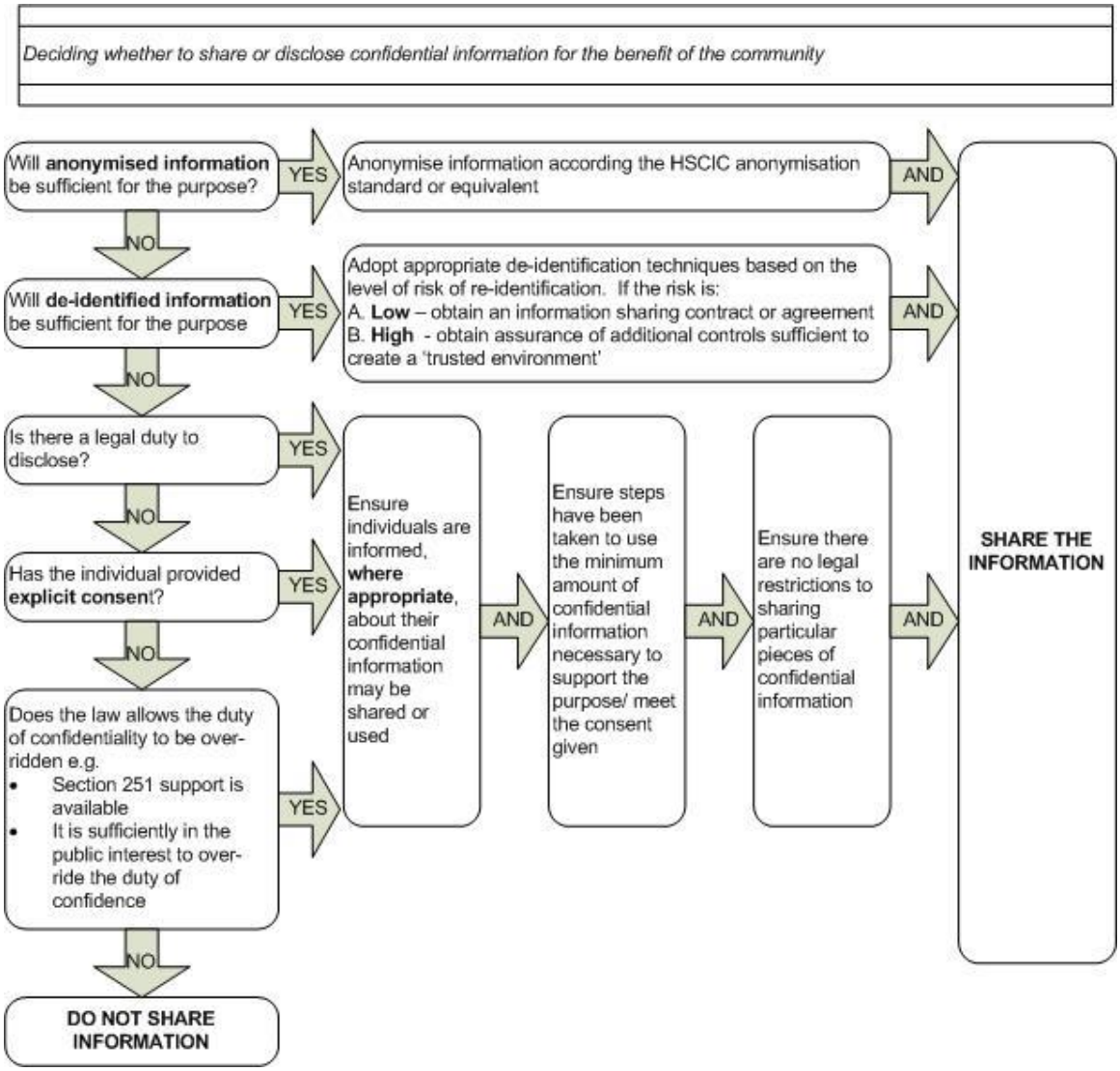
- Confidential information should be shared for safe and effective care
- When confidential information is shared it should be relevant, necessary and proportionate
- However under some circumstances professionals have a duty to share confidential information about individuals in their care



Rule 3 - Information that is shared for the benefit of the community should be anonymised

Where information is for the benefit of the community rather than the support of direct care and to protect individual's confidentiality anonymised information should be used. Information is considered to be anonymised when this is little or no risk of an individual being identified from the information.

- Generally, anonymised information can and should be used to support the improvement of care services
- Sometimes anonymised information by itself is not sufficient to release benefits to the community, occasionally it is important to have information at a service level or patient level to differentiate between individuals e.g. information being linked together using one identifying characteristic but not identifying the individual. The controls required should be based on the risk of re-identification of individuals. The risk could be controlled by data sharing agreements or contracts
- In exceptional circumstances it may be necessary to use confidential information but this requires informed consent of the individual or another legal basis which allows or mandates the sharing



Rule 4 - An individual's right to object to sharing of confidential information about them should be respected

Rule 2 address how to respect the choices of individuals in relation to sharing of their confidential information for direct care purposes. The general principles governing how health and social care organisations should handle objections are

- Objections in all cases should be considered consistently reviewing criteria on a regular for assessing objections on an on-going basis. Members of staff should respect an individual wishes and provide an explanation of the likely consequences to aid an informed decision
- Where individuals object to sharing of confidential information from GP Practices for indirect care, confidential information will not be shared
- Where an objection to sharing of confidential information is implemented, anonymised information can be shared. Anonymised information about service users and patients contributes towards the improvement of services that they and the community benefit from without infringing their privacy or disrespecting their confidentiality wishes
- In rare cases where the likely consequences of an objection pose such a significant risk that the object is lawfully overruled, individuals should receive an explanation of why their objection has been overruled. Such as notifiable diseases, overwhelming public interest, where judged informing an individual may prejudice the purpose of sharing (serious crime committed) or might put someone at risk

Rule 5 - Organisations should put policies, procedures and systems in place to ensure the confidentiality rules are followed

Organisations should ensure they have appropriate organisational and technical systems security, policies, procedures and staff training and education to ensure that information held and shared securely and appropriately. Each organisation should

- Appoint a senior individual responsible for ensuring the confidentiality rules are followed
- Complete an Data Security and Protection Toolkit Assessment
- Ensure that all organisation with which it shares confidential information are committed to following the confidentiality rules
- Encourage people to report concerns that the confidentiality rules have not been followed

Appendix 4: Guidance on Leaving Voicemail / Answerphone Messages

We all need to consider confidentiality when leaving answer machine messages.
We should give as little information as possible out when we do leave messages.

When leaving a message, it is best to say:

"Hello, this is a message for <name>. Could you please phone <number> and speak to <full name>. Thank you".

Alternatively for enquiries or appointments**;**

"Hello, this is a message for <name>. I am calling about an enquiry you made today/yesterday. Could you please phone <number> and speak to <full name>. Thank you".

or

"Hello, this is a message for <name>. I am calling about your appointment. Could you please phone <number> and speak to <full name>. Thank you

The key is to have a record that we have acted in accordance with the patient's wishes; so when taking initial calls and on first contact, it is always good to ask if they are happy to take calls/for us to leave voicemails/to speak to someone else e.g. partner about the case, and for that to be documented.

Appendix 5: Guide to Sending Personal Data via Email Securely

<table>
<tr><td>Secure</td><td colspan="9">All of these are suitable methods for sending PID/Confidential Data by Email however check:
✓ THINK - Are you sure you want to transmit by this method? Could alternative approved methods be used
✓ ALWAYS send the password separately by an alternative method, i.e. phone
✓ ALWAYS double check the recipient's email address – perhaps send a test email
✓ If sending PID - always get agreement between parties this is the best method</td></tr>
<tr><td></td><td>UHMB Outlook to Trusted Partners in the Secure Address book*</td><td>UHMB Outlook via Egress Switch to External Agencies.</td><td>NHS.net to NHS.net</td><td>NHS Mail to Web mail using [Secure]</td><td>UHMB Outlook Secure encrypted connection to Lancashire County Council**</td><td>NHS Mail to GSI Network

*.gsi.gov.uk
*.gse.gov.uk
*.gsx.gov.uk</td><td>NHS mail to MOD

*.mod.uk</td><td>NHS mail to the Police National Network/ Criminal Justice Service

*.police.uk
*.pnn.police.uk
*.scn.gov.uk
*.cjsm.net</td><td>NHS mail to Secure email services in Local Government/Social Services

*.gcsx.gov.uk</td></tr>
<tr><td>Not Secure</td><td colspan="9">None of these methods below are suitable for transferring PID/Confidential Data by Email.</td></tr>
<tr><td></td><td colspan="2">UHMB Outlook to any address not in the Secure Email Address Book. Check for the 'Globe' if its present don't use for PID.</td><td colspan="2">UHMB Outlook to External Agencies UHMB</td><td colspan="2">UHMB Outlook to NHS.net</td><td colspan="2">UHMB Outlook to Web Mail (Hotmail, Gmail etc.)</td><td>UHMB to standard Government Email</td></tr>
</table>

* Trusted Partners –UHMB, BFWH, LTHTR, LCFT, BPCT, ELHT, LASCA, FCMS, (01H) Cumbria CCG, GP Surgeries, NHSNW, Midlands CSU, LCCSSD, BWDSSD
** For Lancashire County Council addresses, please contact Information.security@mbhci.nhs.uk

Appendix 6: Equality & Diversity Impact Assessment Tool

University Hospitals of Morecambe Bay NHS Foundation Trust

Equality Impact Assessment Form

Department/Function	Innovation, Information and Informatics (I3) Service			
Lead Assessor	Fiona Prestwood			
What is being assessed?	Data Protection and Confidentiality Policy			
Date of assessment	11-06-2018			
What groups have you consulted with? Include details of involvement in the Equality Impact Assessment process.	Equality of Access to Health Group	☐	Staff Side Colleagues	☐
	Service Users	☐	Staff Inclusion Network/s	☐
	Personal Fair Diverse Champions	☐	Other (Inc. external orgs)	☐
	Please give details: Information Governance and Data Quality Group			

1) What is the impact on the following equality groups?

Positive:	Negative:	Neutral:
➢ Advance Equality of opportunity ➢ Foster good relations between different groups ➢ Address explicit needs of Equality target groups	➢ Unlawful discrimination, harassment and victimisation ➢ Failure to address explicit needs of Equality target groups	➢ It is quite acceptable for the assessment to come out as Neutral Impact. ➢ Be sure you can justify this decision with clear reasons and evidence if you are challenged

Equality Groups	Impact (Positive / Negative / Neutral)	Comments ➢ Provide brief description of the positive / negative impact identified benefits to the equality group. ➢ Is any impact identified intended or legal?
Race (All ethnic groups)	Neutral	
Disability (Including physical and mental impairments)	Neutral	
Sex	Neutral	
Gender reassignment	Neutral	
Religion or Belief	Neutral	
Sexual orientation	Neutral	
Age	Neutral	
Marriage and Civil Partnership	Neutral	
Pregnancy and maternity	Neutral	
Other (e.g. caring, human rights)	Neutral	

2) In what ways does any impact identified contribute to or hinder promoting equality and diversity across the organisation?	Not applicable

3) If your assessment identifies a negative impact on Equality Groups you must develop an action plan **to avoid discrimination and ensure opportunities for promoting equality diversity and inclusion are maximised.**

- This should include where it has been identified that further work will be undertaken to further explore the impact on equality groups
- This should be reviewed annually.

Action Plan Summary

Action	**Lead**	**Timescale**

This form will be automatically submitted for review for Policies and Procedures once approved by Policy Group. For all other assessments, please return an electronic copy to EIA.forms@mbht.nhs.uk once completed.