

Consent-under-gdpr-and-dpa-2018				
Version	Date	Author	Rationale	Approved
1.0	March 2018	SCWCSU	Oxford CCGs GP GDPR pack	
1.01	23 Mar 2018	Dr L Slater	Recompiled for NWL local use to incorporate 4 BMS FPN sections	B Sturman
1.02	24 Mar 2018	Dr L Slater	Version control request	
1.03	22/06/2018	Dr L Slater	Updated web links for BHH and revised entry relating to aggregated research data	
1.04	04/09/2018	Joe Stock	Revision following NWL GP GDPR privacy notice meeting	Dr L Slater
1.05	10/08/2018	Joe Stock	Final revisions	Dr L Slater
1.06	07/03/2019	Dr L Slater	New pointers to a central site with local allowed list and an EDISM section relevant to TPP practices	Dr L Slater
1.07	13/03/2019	Dr L Slater	Minor corrections to update review	Dr L Slater

## Privacy Notice

### Your information, what you need to know

This privacy notice explains why we collect information about you, how that information may be used, how we keep it safe and confidential and what your rights are in relation to this.

### Why we collect information about you

Health care professionals who provide you with care are required by law to maintain records about your health and any treatment or care you have received within any NHS organisation. These records help to provide you with the best possible healthcare and help us to protect your safety.

We collect and hold data for providing healthcare services to our patients and running our organisation which includes monitoring the quality of care that we provide. In carrying out this role we may collect information about you which helps us respond to your queries or secure specialist services. We may keep your information in written form and/or in digital form.

The records may include basic details about you, such as your name and address. They may also contain more sensitive information about your health and also information such as outcomes of needs assessments.

### Details we collect about you

The health care professionals who provide you with care maintain records about your health and any treatment or care you have received previously (e.g. from Hospitals, GP Surgeries, A&E, etc.). These records help to provide you with the best possible healthcare.

Records which this GP Practice may hold about you include the following:

- Details about you, such as your address and next of kin
- Any contact the surgery has had with you, such as appointments, clinic visits, emergency appointments, etc.
- Notes and reports about your health
- Details about your treatment and care
- Results of investigations, such as laboratory tests, x-rays, etc.
- Relevant information from other health professionals, relatives or your carers

### How we keep your information confidential and safe

Everyone working for our organisation is subject to the Common Law Duty of Confidence. Information provided in confidence will only be used for the purposes advised with consent given by the patient, unless there are other circumstances covered by the law. The NHS Digital [Code of Practice on Confidential Information](#) applies to all NHS staff and they are required to protect your information, inform you of how your information will be used, and allow you to decide if and how your information can be shared. All our staff are expected to make sure information is kept confidential and receive regular training on how to do this.

The health records we use may be electronic, on paper or a mixture of both, and we use a combination of working practices and technology to ensure that your information is kept confidential and secure. Your records are backed up securely in line with NHS standard procedures. We ensure that the information we hold is kept in secure locations, is protected by appropriate security and access is restricted to authorised personnel.

We also make sure external data processors that support us are legally and contractually bound to operate and prove security arrangements are in place where data that could or does identify a person are processed.

We are committed to protecting your privacy and will only use information collected lawfully in accordance with:

- Data Protection Act 2018
- General Data Protection Regulation
- Human Rights Act
- Common Law Duty of Confidentiality
- NHS Codes of Confidentiality and Information Security
- Health and Social Care Act 2015
- And all applicable legislation

We maintain our duty of confidentiality to you at all times. We will only ever use or pass on information about you if we reasonably believe that others involved in your care have a genuine need for it. We will not disclose your information to any third party without your permission unless there are exceptional circumstances (such as a risk of serious harm to yourself or others) or where the law requires information to be passed on.

## How we use your information

Improvements in information technology are also making it possible for us to share data with other healthcare organisations for providing you, your family and your community with better care. For example, it is possible for healthcare professionals in other services to access your record with your permission when the practice is closed. This is explained further in the Local Information Sharing section below.

Under the powers of the Health and Social Care Act 2015, NHS Digital can request personal confidential data from GP Practices without seeking patient consent for a number of specific purposes, which are set out in law. These purposes are explained below.

You may choose to opt-out to personal data being shared for these purposes. When we are about to participate in a new data-sharing project we aim to display prominent notices in the Practice and on our website four weeks before the scheme is due to start.

Instructions will be provided to explain what you have to do to 'opt-out' of the new scheme. Please be aware that it may not be possible to opt out of one scheme and not others, so you may have to opt out of all the schemes if you do not wish your data to be shared.

You can object to your personal information being shared with other healthcare providers which will not affect your entitlement to care, but you should be aware that this may, in some instances,

affect your care as important information about your health might not be available to healthcare staff in other organisations. If this limits the treatment that you can receive then the practice staff will explain this to you at the time you object.

To ensure you receive the best possible care, your records are used to facilitate the care you receive. Information held about you may be used to help protect the health of the public and to help us manage the NHS.

## **Child Health Information**

We wish to make sure that your child has the opportunity to have immunisations and health checks when they are due. We share information about childhood immunisations, the 6-8 week new baby check and breast-feeding status with NHS CLCH health visitors and school nurses, and with NEL Commissioning Support Unit, who provide the Child Health Information Service on behalf of NHS England.

## **Clinical audit**

Information may be used by the Clinical Commissioning Group for clinical audit to monitor the quality of the service provided to patients with long terms conditions. Some of this information may be held centrally and used for statistical purposes (e.g. the National Diabetes Audit). When this happens, strict measures are taken to ensure that individual patients cannot be identified from the data.

## **Clinical Research**

Sometimes anonymised data may be used for research purposes – but we will normally ask your permission before releasing any information for this purpose which could be used to identify you.

In some instances, the Confidentially Advisory Group, part of the Health Research Authority may allow for identifiable information to be shared with researchers without consent of individuals. You may however opt-out of this, details of which can be found below under the ‘National Data Opt-Out’.

## **Improving Diabetes Care and long-term condition management**

Information that does not identify individual patients is used to enable focussed discussions to take place at practice-led local diabetes and long term condition management review meetings between health care professionals. This enables the professionals to improve the management and support of these patients.

## **Individual Funding Request**

An ‘Individual Funding Request’ is a request made on your behalf, with your consent, by a clinician, for funding of specialised healthcare which falls outside the range of services and treatments that CCG has agreed to commission for the local population. An Individual Funding Request is taken under

consideration when a case can be set out by a patient’s clinician that there are exceptional clinical circumstances which make the patient’s case different from other patients with the same condition

who are at the same stage of their disease, or when the request is for a treatment that is regarded as new or experimental and where there are no other similar patients who would benefit from this treatment. A detailed response, including the criteria considered in arriving at the decision, will be provided to the patient’s clinician.

## Invoice Validation

Invoice validation is an important process. It involves using your NHS number to check which Clinical Commissioning Group is responsible for paying for your treatment. Section 251 of the NHS Act 2006 provides a statutory legal basis to process data for invoice validation purposes. We can also use your NHS number to check whether your care has been funded through specialist commissioning, which NHS England will pay for. The process makes sure that the organisations providing your care are paid correctly.

## Local Information Sharing

Your GP electronic patient record is held securely and confidentially on an electronic system managed by your registered GP practice. If you require attention from a local health or care professional outside of your usual practice services, such as in an Evening and Weekend GP HUB services, Emergency Department, Minor Injury Unit or Out Of Hours service, the professionals treating you are better able to give you safe and effective care if some of the information from your GP record is available to them. If those services use a TPP clinical system your full SystmOne medical record will only be shared with your express consent.

Where available, this information can be shared electronically with other local healthcare providers via a secure system designed for this purpose. Depending on the service you are using and your health needs, this may involve the healthcare professional accessing a secure system that enables them to view either parts of your GP electronic patient record (e.g. your Summary Care Record) or a secure system that enables them to view your full GP electronic patient record (e.g. TPP SystmOne medical records or EMIS remote consulting system).

In all cases, your information is only accessed and used by authorised staff who are involved in providing or supporting your direct care. Your permission will be asked before the information is accessed, other than in exceptional circumstances (e.g. emergencies) if the healthcare professional is unable to ask you and this is deemed to be in your best interests (which will then be logged).

## Enhanced Data Sharing Module for practices using TPP SystmOne

If your Practice uses the TPP SystmOne software, you can choose whether other health and care providers can access your information to help provide you with care. We have drawn up an “allowed list” of local organisations with whom we can share your data (when you register for their services and give them verbal permission to provide your care through a TPP clinical system). See the link below under *Who are our partner organisations*.

If your GP uses SystmOne clinical software, organisations outside of this allowed group who use the same software will require formal documented permission to see your records. Your GP system will send you an SMS or email which you can give to the organisation asking for access which will formally validate your consent.

It is possible for you to set your own specific permissions (as distinct from the allowed list we have provided). More information about this, and how to do so, can be found here.



eDSM enhancements\_Patient leaflet.pdf



eDSM enhancements\_Patient Quick Start Guide v.1.0.pdf

## National Fraud Initiative - Cabinet Office

The use of data by the Cabinet Office for data matching is carried out with statutory authority under Part 6 of the Local Audit and Accountability Act 2014. It does not require the consent of the individuals concerned under the Data Protection Act 2018. Data matching by the Cabinet Office is subject to a Code of Practice. For further information see:

<https://www.gov.uk/government/publications/code-of-data-matching-practice-for-national-fraud-initiative>

## National Registries

National Registries (such as the Learning Disabilities Register) have statutory permission under Section 251 of the NHS Act 2006, to collect and hold service user identifiable information without the need to seek informed consent from each individual service user.

## Risk Stratification

'Risk stratification for case finding' is a process for identifying and managing patients who have or may be at-risk of health conditions (such as diabetes) or who are most likely to need healthcare services (such as people with frailty). Risk stratification tools used in the NHS help determine a person's risk of suffering a particular condition and enable us to focus on preventing ill health before it develops.

Information about you is collected from a number of sources including NHS Trusts, GP Federations and your GP Practice. A risk score is then arrived at through an analysis of your de-identified information. This can help us identify and offer you additional services to improve your health.

Risk-stratification data may also be used to improve local services and commission new services, where there is an identified need. In this area, risk stratification may be commissioned by the NWL Clinical Commissioning Groups. Section 251 of the NHS Act 2006 provides a statutory legal basis to process data for risk stratification purposes. Further information about risk stratification is available from: <https://www.england.nhs.uk/ourwork/tsd/ig/risk-stratification/>

If you do not wish information about you to be included in any risk stratification programmes, please let us know. We can add a code to your records that will stop your information from being used for this purpose. Please be aware that this may limit the ability of healthcare professionals to identify if you have or are at risk of developing certain serious health conditions.

## Safeguarding

To ensure that adult and children's safeguarding matters are managed appropriately, access to identifiable information will be shared in some limited circumstances where it's legally required for the safety of the individuals concerned.

## Summary Care Record (SCR)

The NHS in England uses a national electronic record called the Summary Care Record (SCR) to support patient care. It contains key information from your GP record. Your SCR provides authorised healthcare staff with faster, secure access to essential information about you in an emergency or when you need unplanned care, where such information would otherwise be unavailable.

Summary Care Records are there to improve the safety and quality of your care. SCR core information comprises your allergies, adverse reactions and medications. An SCR with additional information can also include reason for medication, vaccinations, significant diagnoses / problems, significant procedures, anticipatory care information and end of life care information. Additional information can only be added to your SCR with your agreement.

Please be aware that if you choose to opt-out of SCR, NHS healthcare staff caring for you outside of this surgery may not be aware of your current medications, allergies you suffer from and any bad reactions to medicines you have had, in order to treat you safely in an emergency. Your records will stay as they are now with information being shared by letter, email, fax or phone. If you wish to opt-out of having an SCR please return a completed opt-out form to the practice.

## Supporting Medicines Management

NWL Clinical Commissioning Groups use pharmacist and prescribing advice services to support local GP practices with prescribing queries, which may require identifiable information to be shared. These pharmacists work with your usual GP to provide advice on medicines and prescribing queries, and review prescribing of medicines to ensure that it is appropriate for your needs, safe and cost-effective. Where specialist prescribing support is required, the CCG medicines management team may provide relating to obtaining medications on behalf of your GP Practice to support your care.

## Supporting Locally Commissioned Services

CCGs support GP practices by auditing anonymised data to monitor locally commissioned services, measure prevalence and support data quality. The data does not include identifiable information and is used to support patient care and ensure providers are correctly paid for the services they provide.

## Suspected Cancer

Data may be analysed in cases of suspected cancer by [The Royal Marsden NHS Trust](#), [The Royal Brompton Hospital](#), [Imperial College Healthcare NHS Trust](#), [Chelsea and Westminster Hospital NHS Foundation Trust](#), [London North West Healthcare NHS Trust](#) and [University College London Hospitals NHS Foundation Trust](#) to facilitate the prevention, early diagnosis and management of illness. Measures are taken to ensure the data for analysis does not identify individual patients.

## Data Retention

We manage patient records in line with the [Records Management NHS Code of Practice for Health and Social Care](#) which sets the required standards of practice in the management of records for those who work within or under contract to NHS organisations in England, based on current legal requirements and professional best practice.

## Who are our partner organisations?

We may also have to share your information, subject to strict agreements on how it will be used, with the following types of organisations:

- NHS Trusts
- Specialist Trusts
- GP Federations
- Independent Contractors such as dentists, opticians, pharmacists

- Private Sector Providers
- Voluntary Sector Providers
- Ambulance Trusts
- Clinical Commissioning Groups
- Social Care Services
- Local Authorities
- Education Services
- Fire and Rescue Services
- Police
- Other 'data processors'

Specific details of the organisations with whom we share your data can be seen here:

<https://www.healthiernorthwestlondon.nhs.uk/yourhealth/healthinformation>

We will not share your full information outside of health partner organisations without your consent unless there are exceptional circumstances such as when the health or safety of others is at risk, where the law requires it or to carry out a statutory function. No information will ever be shared where we do not have a lawful basis to do so.

Within the health partner organisations providing your care (NHS and Specialist Trusts) and in relation to the above mentioned themes – Risk Stratification, Invoice Validation, Supporting Medicines Management, Summary Care Record – your information will be shared unless you choose to opt-out (see below).

This means you will need to express an explicit wish to not have your information shared with the other organisations; otherwise it will be automatically shared. We are required by law to report certain information to the appropriate authorities. This is only provided after formal permission has been given by a qualified health professional. There are occasions when we must pass on information, such as notification of new births, where we encounter infectious diseases which may endanger the safety of others, such as meningitis or measles (but not HIV/AIDS), and where a formal court order has been issued. Our guiding principle is that we are holding your records in strictest confidence.

## Right to withdraw consent to share personal information (Opt- Out)

If you are happy for your data to be extracted and used for the purposes described in this privacy notice then you do not need to do anything. If you do not want your information to be used for any purpose beyond providing your care you can choose to opt-out. If you wish to do so, please let us know so we can code your record appropriately. We will respect your decision if you do not wish your information to be used for any purpose other than your care but in some circumstances we may still be legally required to disclose your data.

There are two main types of opt-out.



## Type 1 Opt-Out

If you do not want information that identifies you to be shared outside the practice, for purposes beyond your direct care, you can register a 'Type 1 Opt-Out'. This prevents your personal confidential information from being used other than in particular circumstances required by law, such as a public health emergency like an outbreak of a pandemic disease. Please talk to a member of staff at your Practice to initiate the type 1 opt-out.

## National Data Opt-Out

NHS Digital have created a new opt-out system named the National Data Opt-Out which allows individuals to opt-out of their information being used for planning and research purposes. From 25 May 2018, NHS Digital has had to apply this opt-out for all their data flows, and from 2020 all health and care organisations will have to ensure the opt-out is respected. Individuals who previously opted out with a 'Type 2' objection will not have to do anything as you will be automatically be opted out.

If you wish to apply the National Opt-Out, please go to NHS Digital's website here <https://www.nhs.uk/your-nhs-data-matters/>

### Access to your information

Under the Data Protection Act 2018 everybody has the right to see, or have a copy, of data we hold that can identify you, with some exceptions. You do not need to give a reason to see your data. If you want to access your data you must make the request in writing or speak to a member of the Practice staff. Under special circumstances, some information may be withheld.

If you wish to have a copy of the information we hold about you, please contact: **Rekha Jayatissa or Jan du Plessis**

## Change of Details

It is important that you tell the person treating you if any of your details such as your name or address have changed or if any of your details are incorrect in order for this to be amended. Please inform us of any changes so our records for you are accurate and up to date.

## Mobile telephone number

If you provide us with your mobile phone number we may use this to send you reminders about your appointments or other health screening information. Please let us know if you do not wish to receive reminders on your mobile.

## Notification

The Digital Economy 2017 requires organisations to register a notification with the Information Commissioner to describe the purposes for which they process personal data

We are registered as a data controller and our registration can be viewed online in the public register at: [http://ico.org.uk/what\\_we\\_cover/register\\_of\\_data\\_controllers](http://ico.org.uk/what_we_cover/register_of_data_controllers)

Any changes to this notice will be published on our website and in a prominent area at the Practice.

## Complaints

If you have concerns or are unhappy about any of our services, please contact the Practice Manager **Jan du Plessis**

For independent advice about data protection, privacy and data-sharing issues, you can contact:

The Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow Cheshire SK9 5AF

Phone: 0303 123 1113

Website: [www.ico.org.uk](http://www.ico.org.uk)

## Information we are required to provide you

<b>Data Controller</b> contact details	Earls Court Surgery, 269 Old Brompton Road London SW5 9JA
<b>Data Protection Officer</b> contact details	Dr. Ernest Norman-Williams <nwl.infogovernance@nhs.net>
<b>Purpose</b> of the processing for the provision of your healthcare	<ul style="list-style-type: none"> <li>To give direct health or social care to individual patients.</li> <li>For example, when a patient agrees to a referral for direct care, such as to a hospital, relevant information about the patient will be shared with the other healthcare staff to enable them to give appropriate advice, investigations, treatments and/or care.</li> <li>To check and review the quality of care. (This is called audit and clinical governance).</li> </ul>
<b>Lawful basis</b> for processing for the provision of your healthcare	<p>These purposes are supported under the following sections of the GDPR:</p> <p><i>Article 6(1)(e) ‘...necessary for the performance of a task carried out in the public interest or in the exercise of official authority...’; and</i></p> <p><i>Article 9(2)(h) ‘necessary for the purposes of preventative or occupational medicine for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services...’</i></p> <p>Healthcare staff will also respect and comply with their obligations under the common law duty of confidence.</p>

<b>Purpose of the processing for medical research and to measure quality of care</b>	Medical research and to check the quality of care which is given to patients (this is called national clinical audit).
<b>Lawful basis for processing for medical research and to measure the quality of care</b>	The following sections of the GDPR mean that we can use medical records for research and to check the quality of care (national clinical audits)  Article 6(1)(e) – ‘processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller’.  For medical research: there are two possible conditions.  Either: Article 9(2)(a) – ‘the data subject has given explicit consent...’ Or: Article 9(2)(j) – ‘processing is necessary for... scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member States law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and interests of the data subject’.  To check the quality of care (clinical audit): Article 9(2)(h) – ‘processing is necessary for the purpose of preventative...medicine...the provision of health or social care or treatment or the management of health or social care systems and services...’
<b>Purpose of the processing to meet legal requirements</b>	Compliance with legal obligations or court order.
<b>Lawful basis for processing to meet legal requirements</b>	These purposes are supported under the following sections of the GDPR:  Article 6(1)(c) – ‘processing is necessary for compliance with a legal obligation to which the controller is subject...’  Article 9(2)(g) – ‘processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;  Schedule 1 part 2 of the Data Protection Act 2018 lists the substantial public interest conditions, of which paragraph 2 states data can be processed when the purpose is for the exercise of function conferred on a person by enactment or rule of law.
<b>Purpose of the processing for National screening programmes</b>	<ul style="list-style-type: none"> <li>• The NHS provides several national health screening programmes to detect diseases or conditions early such as cervical and breast cancer, aortic aneurysm and diabetes.</li> <li>• The information is shared so that the correct people are invited for screening. This means those who are most at risk can be offered treatment.</li> </ul>
<b>Lawful basis for processing for National screening programmes</b>	The following sections of the GDPR allow us to contact patients for screening.  Article 6(1)(e) – ‘processing is necessary...in the exercise of official authority vested in the controller...’  Article 9(2)(h) – ‘processing is necessary for the purpose of preventative...medicine...the provision of health or social care or treatment or the management of health or social care systems and services...’

<b>Lawful basis for processing for employment purposes</b>	<p>The following sections of GDPR allow us to process staff data in an employment capacity</p> <p>Article 6(1)(b) – ‘processing is necessary for compliance with a legal obligation’</p> <p>Article 9(2)(b) – ‘processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment ... law in so far as it is authorised by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject;’</p>
<b>Rights to object</b>	<ul style="list-style-type: none"> <li>• You have the right to object to information being shared between those who are providing you with direct care.</li> <li>• This will not affect your entitlement to care, but this may affect the care you receive – please speak to the practice.</li> <li>• Any objection will be reviewed by the Practice and a decision taken on whether to uphold the request. The right to object is not an absolute right.</li> <li>• In appropriate circumstances it is a legal and professional requirement to share information for safeguarding reasons. This is to protect people from harm.</li> <li>• The information will be shared with the local safeguarding service RBKC</li> </ul>
<b>Right to access and correct</b>	<ul style="list-style-type: none"> <li>• You have the right to access your medical record and have any errors or mistakes corrected. Please speak to a member of staff or look at our ‘subject access request’ policy on the practice website - <a href="https://www.earlscourtsurgery.co.uk/">https://www.earlscourtsurgery.co.uk/</a></li> <li>• You have the right to request rectification of your record if you believe information contained within it is wrong. Information will only be deleted in very exceptional circumstances. In most instances the original information will be retained on the record noting the rectified information.</li> </ul>
<b>Retention period</b>	<p>GP medical records will be kept in line with the law and national guidance. Information on how long records are kept can be found at: <a href="https://digital.nhs.uk/article/1202/Records-Management-Code-of-Practice-for-Health-and-Social-Care-2016">https://digital.nhs.uk/article/1202/Records-Management-Code-of-Practice-for-Health-and-Social-Care-2016</a> or <a href="#">speak to the practice.</a></p>
<b>Right to complain</b>	<p>You have the right to complain to the Information Commissioner’s Office. You may follow this link <a href="https://ico.org.uk/global/contact-us/">https://ico.org.uk/global/contact-us/</a> or <a href="#">call the helpline 0303 123 1113</a></p>
<b>Data we get from other organisations</b>	<p>We receive information about your health from other organisations who are involved in providing you with health and social care. For example, if you go to hospital for treatment or an operation the hospital will send us a letter to let us know what happens. This means your GP medical record is kept up-to date when you receive care from other parts of the health service.</p>

## The NHS Care Record Guarantee

The NHS Care Record Guarantee for England sets out the rules that govern how patient information is used in the NHS, what control the patient can have over this, the rights individuals have to request copies of their data and how data is protected under the Data Protection Act 2018.

<http://systems.digital.nhs.uk/infogov/links/nhscrg.pdf>

## The NHS Constitution

The NHS Constitution establishes the principles and values of the NHS in England. It sets out the rights patients, the public and staff are entitled to. These rights cover how patients access health

services, the quality of care you'll receive, the treatments and programmes available to you, confidentiality, information and your right to complain if things go wrong.

<https://www.gov.uk/government/publications/the-nhs-constitution-for-england>

## NHS Digital

NHS Digital collects health information from the records health and social care providers keep about the care and treatment they give, to promote health or support improvements in the delivery of care services in England.

<http://content.digital.nhs.uk/article/4963/What-we-collect>

## Reviews of and Changes to our Privacy Notice

We will keep our Privacy Notice under regular review. This notice was last reviewed in March 2019.