

Nuffield Road Medical Centre

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| Domain | Standard Operational Procedures |
| Procedure Title | Data Protection Policy |
| Date Distributed | May 2019 |

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| Who is the policy/procedure intended for: Nuffield Road Medical Centre | |
| Clinical Staff | Yes |
| Non Clinical Staff | Yes |

Introduction

Nuffield Road Medical Centre needs to have a Data Protection Policy to demonstrate compliance with the General Data Protection Regulation (GDPR) and UK Data Protection Legislation. This policy sets out the general arrangements by which we will be compliant under the various Articles of GDPR and UK Data Protection Act 2018.

The Data Controller details are below, and these can be found on the Information Commissioner's Office Data Protection register.

Data Controller: Glenn Hearnden, Practice Manager, Nuffield Road Medical Centre, Nuffield Road, Cambridge CB4 1GL

Email address: glenn.hearnden@nhs.net

Data Protection Registration Number: Z8304868

As a general practice providing services under an NHS contract we process personal and special category data relating to our staff and those we treat, registered patients and others, internally and with other organisations external to the practice. We also hold data on other types of customers, suppliers, business contacts and other people we have relationships with or may need to contact.

We are also required by certain laws to disclose certain types of data to other organisations on a regular basis such as NHS Digital, Public Health England, NHS

Nuffield Road Medical Centre

England, the Local Authority, NHS or the Cambridgeshire and Peterborough Clinical Commissioning Group.

We are also required by certain laws to disclose certain types of data to other organisations on an event by event basis, such as CQC or the General Medical Council

These processing activities, and others, are described in detail in our Practice Privacy Notice. This can be found here: www.nrmc.nhs.uk.

Why this policy exists

The practice recognises that with the advance of technology, and more complex ways to share and communicate digitally, the emphasis of data processing needs to be refocused to a default of protection and ensure disclosure is lawful, informed, controlled, and of benefit to the data subject.

The GDPR enables the Practice to build patient trust in how we collect and use personal data, and improve the way we provide services.

We are open about how we store and process personal data, and protect ourselves from the risks of a data breach.

General

This policy applies no matter how the data is stored; electronically, documents, images, on paper.

To comply with the law, personal data must only be collected and used fairly, stored safely and not disclosed unlawfully.

Personal data must:

- Be processed fairly and lawfully, and transparently, in line with UK Data Protection Legislation and the Common Law Duty Confidentiality
- Be obtained only for specific, lawful purposes
- Be adequate, relevant and not excessive
- Be accurate and kept up to date
- Not be held for any longer than necessary

Nuffield Road Medical Centre

- Processed in accordance with the rights of data subjects
- Be protected in appropriate ways

Policy scope

This policy applies to our whole practice team, clinical and non-clinical, and to everyone who works within the practice, this includes anyone who has agreed that they have a duty of confidence, and has access to the practice systems, and patient, staff and/or organisation-confidential or business sensitive information. This will include but not be limited to all employees of the Practice, partner organisations who access record systems, locums, students, volunteers and contractors.

It applies to all the personal data that we process.

Responsibilities

Everyone who works for or with us has shared responsibility for ensuring data is collected, stored and handled appropriately. Each person that handles personal data in this organisation must ensure that it is handled and processed in line with this policy and data protection principles.

The Practice, who holds the NHS GP contract, is the data controller, and is therefore responsible for ensuring that we meet all our legal obligations.

The following specific duties and responsibilities apply within the Practice:

- The Practice Manager has overall responsibility for the Data Protection Policy.
- The Caldicott Guardian has responsibility for placing appropriate controls and procedures for monitoring access to any person identifiable data held by the Practice.
- The Information Governance (IG) Lead will be responsible for providing advice, liaising with other organisations to process subject access requests, co-ordinating the release of the data and investigating complaints.
- The Practice Manager is responsible for ensuring all staff are aware and comply with this policy.
- The Senior Information Risk Owner (SIRO) required under the Information Governance Toolkit (IGT) is one of several NHS Information Governance measures to strengthen the handling of data and minimising risk.

Nuffield Road Medical Centre

- All of the practice team, including contractors, volunteers, agency staff are responsible for person identifiable data that they record or process and are obliged to adhere to this policy.

The Data Protection Officer

The Practice is a Public Authority, as the services we provide are under an NHS Contract, therefore, the Practice has designated a Data Protection Officer who:

- Keeps practice informed about current data protection responsibilities and risks and issues
- Provides advice to the data controller
- Assists the data controller to monitor and maintain and demonstrate compliance
- Advises on the need for Data Privacy Impact Assessments
- Acts as a point of contact for data subjects and the ICO
- Provides an independent view, based on knowledge of UK data protection legislation

The practice

- will ensure that the DPO can operate independently and without limitation
- will involve the DPO in relevant issues
- will ensure staff are trained and aware of GDPR requirements
- will ensure that the opinion of the DPO must always be given due weight
- will not issue the DPO with any instructions or place any constraints relating to their DPO role
- will allow data subjects to contact the DPO
- will comprehensively record and thoroughly document any reasons for acting against the advice of their DPO

Designation of the DPO

- The practice has designated the Data Protection Officer role to be provisioned by Cambridgeshire and Peterborough Clinical Commissioning Group (CCG).
- The DPO contact details are CAPCCG.DataProtectionOfficer@nhs.net or The Data Protection Officer, Cambridgeshire and Peterborough CCG, Lockton House, Clarendon Road, Cambridge, CB2 8FH

Nuffield Road Medical Centre

Our IT Systems

- Our practice IT systems and support are provided via the Cambridgeshire and Peterborough CCG and under national contracts with Clinical system providers.
- We ensure systems, services and equipment used for storing data meet acceptable security standards
- Regular checks and reviews are performed to ensure security hardware and software is functioning properly
- The practice liaises with the CCG provided IT infrastructure support services
- The practice ensures that cyber security recommendations are implemented and deployed, and continual staff awareness is raised regarding cyber security
- The practice will liaise with the DPO on any technical matters relating to the GDPR

The General Data Protection Regulation (GDPR) 2018

The GDPR comes into force on 25 May 2018. The Data Protection Act will be updated once Parliament has approved the Bill to do so, and the UK Data Protection Act 2018 will then come into force as well.

Contracts and Service Level Agreements

The Practice must ensure that appropriate wording regarding compliance with the Data Protection Act (and GDPR) is covered in all contracts and service level agreements before these are signed or changes are agreed. Temporary staff, students, volunteers and contractors are required to sign a confidentiality agreement. Copies are available from the Practice Manager.

Training

All Staff must complete information governance training on an annual basis. Compliance is monitored, and a reminder sent to those members of staff whose training is about to, or has, expired.

Data Processing Register and Privacy Notice

A register of data processing activities undertaken by the practice, and any data processing agreements entered into will be maintained in a register, which will be regularly updated and reviewed. This will include ensuring the GDPR legal basis for processing data is identified.

The practice will regularly review, and update as required, the practice Privacy Notice, which will be published on our website.

Changes to systems and processes – Data Protection Impact Assessments

It is important that changes to services and systems and processing of person identifiable data are assessed to ensure that confidentiality, accessibility and integrity of data are maintained. The practice will liaise with DPO to identify when Data Protection Impact Assessment (DPIA) is required and will ensure this is completed and approved before changes are introduced.

Accuracy of data

All practice staff are responsible for ensuring that:

- Their own personal data provided in relation to their employment is accurate and up to date
- Person identifiable data that they handle lawfully as part of their role is as accurate and up to date as possible, kept securely with restricted access, and not kept for longer than necessary.

Security of Data

All staff are responsible for ensuring that personal or sensitive data is held securely and that it is not disclosed to any unauthorised third party. Data that is disclosed inappropriately or accidentally must be reported using the Practice incident reporting process.

All data breaches will be logged in a breach register. To ascertain if a breach is reportable to the ICO, the practice will liaise with the DPO. Any reportable breaches will be reported to the ICO within 72 hours where possible.

All data breaches will be examined, whether reportable or not, to ensure measures are put in place to prevent recurrence, to reduce risk, and to ensure lessons are learned.

Retention of data

The Data Protection Act requires that data is not held for longer than necessary. Staff are required to identify the retention periods for all personal data held by them and ensure that it is disposed of securely in accordance with retention and destruction guidelines included in the Information Governance Alliance: Records Management Code of Practice for Health and Social Care 2016

Nuffield Road Medical Centre

<https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/information-governance-alliance-iga>

Disclosure outside of the UK

Personal data, even if it would otherwise constitute fair processing, must not, unless certain exemptions apply, or protective measures are taken, be disclosed or transferred outside the UK to a country or territory which does not ensure an adequate level of protection for the rights and freedoms of data subjects. Advice should be sought from the Information Governance Lead/Data Protection Officer or Caldicott Guardian before any such information is transferred.

General staff guidelines

- The practice will provide **training** to all employees to help them understand their responsibilities when handling data
- Staff should keep all data secure, by taking sensible precautions and following the practices procedures and policies
- NHS smartcards, Passwords and logins must be used whenever possible and they should **never** be shared or borrowed
- Whenever a screen is left, programs that handle patient data should be closed or locked
- Personal data should **not be disclosed to unauthorised people**, either within the company or externally
- Staff should request help from the Practice Manager or Caldicott Guardian in the first instance if they are unsure about any aspect of data protection
- Staff may liaise with the DPO where required
- All staff will have a privacy and data protection clause added to their contracts

Relevant Legislation and Statutory Best Practice

The **Common Law Duty of Confidentiality** is that if information is given in circumstances where it is expected that a duty of confidence applies, that information cannot normally be disclosed without the information provider's consent unless there is an over-riding public interest (e.g. public health) or legal duty to do so (e.g. detection or prevention of serious crime).

The **UK Data Protection Act – DPA (1998)** controls how an individual's personal information is used by organisations, businesses or the government. Organisations that process PID must register with the Information Commissioner's Office on an annual basis.

From 25 May 2018, the DPA will be repealed by the European Union **General Data Protection Regulation (GDPR)**. The overall principles of the GDPR are for

Nuffield Road Medical Centre

organisations to be fair and transparent about how they use individuals' personal information, and for individuals, where possible, to have more choice and control over how their personal information is used. GDPR builds on current law and best practice. GDPR requires that the practice identifies the legal basis for processing, managing and sharing patient information.

Data protection legislation applies only to living individuals, who have a right to access information that an organisation holds about them. Please see the Practice's Subject Access Request policy and Access to Health Records Policy for further information.

A duty of confidence still applies to deceased individuals' personal information. The **Access to Health Records Act (1990)** confers the right of access to records of deceased patients to executors or administrators of a deceased person's estate and requests for access are administered in a similar way to requests for access to records under data protection law.

Caldicott Principles

The Practice adheres to the Caldicott Principles, as listed below.

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 documented, with continuing uses regularly reviewed, 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 that flow. The need for 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 item 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 those 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 for several purposes.

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

Action should be taken to ensure that those handling personal confidential data — both clinical and non-clinical staff — 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 each 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.

Updates to this policy

This policy will be reviewed and updated as and when UK Data Protection requirements are changed.