Blackpool Teaching Hospitals NHS
NHS Foundation Trust

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| **Document Type:**<br>**POLICY** | | **Unique Identifier:**<br>CORP/POL/107 |
| **Title:**<br>**Confidentiality Code of Conduct** | | **Version Number:**<br>4 |
| | | **Status:**<br>Ratified |
| **Scope:**<br>Trust Wide | | **Classification:**<br>Organisational |
| **Author/Originator and title:**<br>Patricia Butcher – Information Governance Manager | | **Responsibility:**<br>Information Governance Finance Department |
| **Replaces:**<br>Version 3 – Confidentiality Code of Conduct Corp/Pol/107 | **Description of amendments:**<br>Reviewed for Transforming Community Services | |
| **Name Of:**<br>**Divisional/Directorate/Working Group:** | **Date of Meeting:** | **Risk Assessment:**<br>Not Applicable |
| | | **Financial Implications**<br>Not Applicable |
| **Validated by:**<br>Information Governance Assurance Board | **Validation Date:**<br>14/09/2011 | **Which Principles of the NHS Constitution Apply?**<br>Principle 7 |
| **Ratified by:**<br>Information Governance Committee | **Ratified Date:**<br>19/09/2011 | **Issue Date:**<br>19/09/2011 |
| **Review dates may alter if any significant changes are made** | | **Review Date:**<br>01/09/2014 |
| **Does this document meet the requirements of the Equality Act 2010 in relation to Race, Religion or Belief, Age, Disability, Gender, Sexual Orientation, Gender Identity, Pregnancy & Maternity, Marriage and Civil Partnership, Carers, Human Rights and Social Economic Deprivation discrimination? Initial Assessment** | | |

## 1. PURPOSE

The Trust is committed to safeguarding the confidentiality of the individual and the information it holds about them.

This Policy has been produced to:

- inform staff of the need and reasons for keeping information confidential.
- inform staff about what is expected of them.
- protect the Trust as an employer and as a user of confidential information.

## 2. SCOPE

All Trust employees including for the purposes of this document agency staff, contractors and volunteers.

## 3. POLICY

### 3.1 Introduction

All employees working in the NHS are bound by a legal duty of confidence to protect the personal information they may come into contact with during the course of their work. This is not just a requirement of their contractual responsibilities but also a requirement within the Data Protection Act 1998 and, in addition, for health and other professionals through their own professions' Code's of Conduct.

The Confidentiality NHS Code of Practice further endorses this by providing a guide to required practice for those who work within or under contract to NHS organisations concerning confidentiality and patients' consent to the use of their health records

All employees of the Trust come into contact with confidential information at some level on a regular basis and as such need to be aware of their personal responsibilities to its use and protection.

Patients expect that information given by them to their doctors, nurses and other members of the healthcare team will be treated in confidence and not passed to others without their permission. Similar considerations apply to personal information concerning other individuals, such as employees.

### 3.2 Legal Framework

The Trust is committed to compliance with all relevant UK and European Union legislation and NHS guidance. This includes but is not limited to:

- The NHS Confidentiality Code of Practice
- Data Protection Act 1998.
- Common Law Duty of Confidentiality.
- Caldicott Principles (see Appendix 1)
- Information Security Management: NHS Code of Practice

- Freedom of Information Act 2000.
- The Copyright, Design and Patents Act (1988)
- The Computer Misuse Act (1990)
- The Health and Safety at Work Act (1974)
- Human Rights Act (1998)
- Regulation of Investigatory Powers Act 2000
- National Health Service Act 2006

It also supports the risk management programme in the Trust which is monitored through a range of NHSLA standards and assessments and assessments including NHS Protect.

### 3.3 Principles of Confidentiality

Confidential information is information entrusted by an individual in confidence where there is a general obligation not to disclose that information without consent. Confidential information may include personal information such as name, age, address, and personal circumstances, as well as sensitive personal information regarding race, health, sexuality, etc.

Patients have a right to expect that a doctor, nurse or other members of the Health/Social Care Team or Trust staff in general will not disclose any personal information learnt during the course of their duties, unless permission is given. Without assurances about confidentiality patients may be reluctant to give information that may be required in order to provide care.

Similar considerations apply to personal information concerning other individuals, such as staff.

Confidential information may be known, or stored on any medium. Photographs, videos, etc are subject to the same requirements as information stored in health records, on a computer, or given verbally. Information that identifies individuals personally must be assumed to be confidential, and should not be used unless absolutely necessary. Whenever possible, anonymised data (from which personal details have been removed and which therefore cannot identify the individual) is to be used instead. Note however that even anonymised information can only be used for justified purposes.

### 3.4 Awareness and Compliance.

Everyone in the Trust must be aware of the importance of confidentiality. All employees must be aware of their responsibilities for safeguarding patient confidentiality and keeping information secure. It must be remembered that no individual within the Trust has an automatic right of access to personal information held by the Trust.

Employees must comply with the requirements of the Confidentiality NHS Code of Practice, the Data Protection Act 1998 and the Freedom of Information Act 2000. Breaches of confidentiality are a serious matter and non compliance with this Policy may result in disciplinary action being taken.

On joining the Trust new employees will be asked to sign up to the Data Protection and Confidentiality Code (see Appendix 2) (Form and Code will be included in the "New Starter" pack).

### 3.5 Responsibilities

No employee shall knowingly misuse any information or allow others to do so. Any breaches/potential breaches of confidence are to be reported in accordance with the Untoward Incident and Serious Incident Reporting Policy (CORP/POL/098) and the Untoward Incident and Serious Incident Reporting Procedure (CORP/PROC/101).

Confidentiality now forms part of the appraisal performance review "Working Safely" assessment criteria requirements for both the "Blackpool Manager" and the "Blackpool Person".

It is important that individual responsibilities towards the maintenance of confidentiality are known and understood:

- The Caldicott Guardian is responsible for overseeing and advising on issues of patient confidentiality for the Trust.

- Managers are responsible for ensuring that all staff, particularly new staff, temporary staff, contractors and volunteers, know what is expected of them with respect to confidentiality and protecting information within individual areas e.g. wards, departments.

- Individual employees are:
  Responsible for maintaining confidentiality. This duty of confidentiality is written into employment contracts. Breach of confidentiality of information gained, either directly or indirectly in the course of duty will be considered a disciplinary offence that could result in dismissal

- authorised only to have access to the personal information they need to know in order for them to perform their duties. Gaining access or attempting to gain access to information for any other purpose will be seen as a breach of confidentiality as is passing information on to someone who is not authorised to receive it.

- responsible for safeguarding the confidentiality of all personal and Trust information to which they have access, this includes its safe transfer and storage.

- personally responsible for any decision to pass on information to another person/ third party.

- responsible for adhering to the Confidentiality NHS Code of Conduct, Caldicott Principles, the Data Protection Act 1998 and the Freedom of Information Action 2000.

- also expected to treat any non-person identifiable information that could be considered sensitive to the business of the Trust with the same degree of care as would be afforded to person identifiable information.

- Guidance and support relating to the maintenance of confidentiality and security of information is available in the form of the Confidentiality Code of Conduct Guidance CORP/GUID/140 and from the Information Governance Department.

### 3.6 Acting on the Duty of Confidentiality.

Any personal information, non-clinical or clinical, must be treated as confidential.

No personal information, given or received in confidence, may be passed to another person or organisation without the consent of the provider of the information. This is usually the patient but sometimes another person may be the source (e.g. relative or carer).

No personal information, given or received in confidence for one purpose, may be used for a different purpose without the consent of the provider of the information.

Whilst patients usually understand and accept that information may be shared within the health care team in order to provide their care, it is still necessary to check that the patient understands what will be disclosed and who may be contributing to their care.

It is also important to respect the wishes of any patient who objects to their information being shared, except where this would put others at risk of death or serious harm.

The overriding principle is that patients should not be shocked to find out how their information has or is being used or shared, rather that they should be effectively informed to allow them to exercise their rights in relation to their data.

The duty of confidentiality owed to a deceased patient is to be viewed as being consistent with the rights of living individuals.

### 3.7 Training and Awareness

Training and awareness of the importance of the maintenance of confidentiality and information security will be an ongoing process throughout an individual's employment with the Trust and will form part of the mandatory training programme.

It will be provided via a number of methods supplied/supported by the Information Governance Department including:

- Trust Induction.
- Mandatory update sessions.
- E-learning package.
- Confidentiality and information Security training sessions.
- On-going awareness campaign.

Managers will be responsible for ensuring that employees are made aware of any specific ward/departmental requirements/procedures.

### 3.8 Monitoring

The Information Security Officer will provide regular reports to the Information Governance Assurance Board:

The number of reported "information" untoward incidents including:

- Confidentiality

- Security
- Misuse of Data
- Staff training undertaken

| 4. ATTACHMENTS | |
|---|---|
| **Appendix Number** | **Title** |
| 1 | Caldicott Principles |
| 2 | Data Protection and Confidentiality Code |
| 3 | Equality Impact Assessment form |

| 5. ELECTRONIC AND MANUAL RECORDING OF INFORMATION |
|---|
| Electronic Database for Procedural Documents |
| Held by Policy Co-ordinators/Archive Office |

| 6. LOCATIONS THIS DOCUMENT ISSUED TO | | |
|---|---|---|
| **Copy No** | **Location** | **Date Issued** |
| 1 | Intranet | 19/09/2011 |
| 2 | Wards and Departments | 19/09/2011 |

| 7. OTHER RELEVANT/ASSOCIATED DOCUMENTS | |
|---|---|
| **Unique Identifier** | **Title and web links from the document library** |
| CORP/PROC/101 | Untoward Incident And Serious Incident Reporting Procedure http://fcsharepoint/trustdocuments/Documents/CORP-PROC-101.docx |
| CORP/POL/178 | Information Security Policy http://fcsharepoint/trustdocuments/Documents/CORP-POL-178.docx |
| CORP/GUID/140 | Confidentiality Code of Conduct – Guidance http://fcsharepoint/trustdocuments/Documents/CORP-GUID-140.doc |

| 8. SUPPORTING REFERENCES/EVIDENCE BASED DOCUMENTS |
|---|
| **References In Full** |
| The NHS Confidentiality Code of Practice http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4069253 |
| Data Protection Act 1998. http://www.opsi.gov.uk/acts/acts1998/ukpga_19980029_en_1 |
| Information Security Management: NHS Code of Practice http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_074142?IdcService=GET_FILE&dID=138909&Rendition=Web |
| Freedom of Information Act 2000 http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_1 |
| The Copyright, Design and Patents Act (1988) http://www.opsi.gov.uk/acts/acts1988/ukpga_19880048_en_1 |
| The Computer Misuse Act (1990) http://www.opsi.gov.uk/acts/acts1990/Ukpga_19900018_en_1.htm |
| The Health and Safety at Work Act (1974) http://www.opsi.gov.uk/RevisedStatutes/Acts/ukpga/1974/cukpga_19740037_en_1 |
| Human Rights Act (1998) http://www.opsi.gov.uk/acts/acts1998/ukpga_19980042_en_1 |

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| Regulation of Investigatory Powers Act 2000<br>http://www.opsi.gov.uk/acts/acts2000/ukpga_20000023_en_1 |
| National Health Service Act 2006<br>http://www.opsi.gov.uk/acts/acts2006/ukpga_20060041_en_1 |

| **9. CONSULTATION WITH STAFF AND PATIENTS** | |
|---|---|
| **Name** | **Designation** |
| Hayley Atkinson | Deputy Information Governance Manager Blackpool Teaching Hospitals |
| Karen Rouse | Clinical Governance Practitioner NHS North Lancashire |
| Margaret Spence | Information Governance Lead NHS North Lancashire |
| Linda Caunce | Information Governance Manager NHS Blackpool |
| Margaret Forrest | Governance Support Officer, NHS Blackpool |
| Sarah Keighley | Team Leader, Health Visiting and School Nursing, NHS Blackpool |
| Claire Lewis | Senior Governance manager (Standards), NHS North Lancashire |
| Debbie Mathlouthi | Senior Risk Auditor, NHS Blackpool |
| Colin Norris | Staff Representative, NHS Blackpool |
| Andy O'Brien | Dental Service Manager, NHS Blackpool |
| Nick Pym | Assistant Director of Governance and Performance, NHS Blackpool |
| Tracy Riddick | Integrated Service Manager (South), NHS North Lancashire |

| **10. DEFINITIONS/GLOSSARY OF TERMS** | |
|---|---|
| | |
| | |

| **11. AUTHOR/DIVISIONAL/DIRECTORATE MANAGER APPROVAL** | | | |
|---|---|---|---|
| **Issued By** | P Butcher | **Checked By** | P Graham |
| **Job Title** | Information Governance Manager | **Job Title** | Head of IM&T |
| **Date** | September 2011 | **Date** | September 2011 |

## Appendix 1

Caldicott Principles

Justify the purpose(s)
***Question why the information is required and what specific information is needed, to enable them to perform their task.***

Don't use patient/client-identifiable information unless it is absolutely necessary
***Consider why identifiable information about a patient/client is being requested, whether it could be anonymised in some way, and if not what the benefits are, do they out weigh the patient/client's right to confidentiality.***

Use the minimum necessary patient/client identifiable information
***Where supplying patient/client-identifiable information is vital, then we need to consider the absolute minimum required, for this we have to consider what it is needed for and what they have a right to see.***

Access to patient/client-identifiable information should be on a strict need-to-know basis
***Only those who need to view patient/client-identifiable data should be allowed access and even then only to that which they need to know.***

Everyone with access to patient/client-identifiable information should be aware of his or her responsibilities
***Each member of staff concerned should be aware of the implications that a breach of confidentiality has on the patient/client or member of staff and what they should be doing to prevent or reduce the risk of any such breaches.***

Understand and comply with the law
***All uses of patient/client-identifiable data should be lawful. Someone within your organisation must be responsible for ensuring that the organisation complies with legal requirements.***

**Appendix 2**

Blackpool Teaching Hospitals NHS
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## DATA PROTECTION & CONFIDENTIALITY CODE OF CONDUCT

I understand that as an employee of the Trust I am bound by a legal duty of confidence to protect any personal information that I come into contact with during the course of my work. I also understand that I am also expected to treat any non-person identifiable information that could be considered sensitive to the business of the Trust with the same degree of care.

I will not at any time during my employment or afterwards disclose to any person/organisation (including distributors, firms or companies otherwise connected with the Trust).

- Personal Information regarding patients (including prospective patients), staff (in connection with their employment).
- Corporate information relating to the business, dealings, accounts, finances, trading, software, know-how, affairs of the Trust.
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unless I have the authority to do so and only within the confines of the Law and local Trust Policy, Procedure and Guidance. This includes but is not limited to:

- The Data Protection Act 1998
- The Freedom of Information Act 2000
- The Human Rights Act 2000
- The Computer Misuse Act 1990
- Crime and Disorder Act 1998
- The Access to Health Records Act 1990
- Access to Medical Reports Act 1998
- Confidentiality Code of Conduct Policy (CORP/POL/107)
- Confidentiality Code of Conduct Guidance (CORP/GUID/140)



All notes, memoranda, records and other documents created/used by me during the course of my duties for the Trust shall remain the property of the Trust and shall be handed over by me to the Trust from time to time on demand and, in any event, upon termination of my employment.

I understand that any breach of this Code of Conduct may constitute a disciplinary offence that could result in disciplinary action being taken. The outcome of such action could be regarded as gross misconduct and lead to dismissal. Any breach of this Code of Conduct after my employment has ended may result in legal action being taken.

I understand my role and responsibilities in relation to the protection of both manual and automated data.

I understand my responsibilities in relation to data confidentiality

I have read the Confidentiality Code of Conduct Policy and Guidance.

Print Name Sign name

Date

Line Manager – A verbal explanation of the above statement has been provided to the above member of staff.

Signature of Line Manager _____

Date _____

**Relevant Acts of Parliament and NHS guidelines and what they mean for employees**

| Requirement | What it covers | Personal responsibilities | Penalties for breaches |
|---|---|---|---|
| Data Protection Act 1998 | Person identifiable information about living individuals – manual and automated records (e.g. on computer, video tape, digital images) | Keep all person identifiable information secure and confidential – see Code of Conduct for specific details | Unauthorised disclosure of personal identifiable information could lead to court action and a criminal conviction and/or the payment of compensation to a claimant |
| Human Rights Act 1998 (Article 8) | An individual's right to privacy for themselves and their family members | As above | As above |
| Computer Misuse Act 1990 | Unauthorised access to computer held programs and information/data | Do not use any other persons access rights (e.g. user id and password) to access a computer database | A criminal record and a prison sentence of up to 5 years |
| Common Law of confidentiality | An individual's right to confidentiality of their information when alive and once they have died | Keep all information secure and confidential. Also remember this covers wishes of deceased persons – if it is recorded they do not want details of their treatment disclosed when they die this wish will normally need to be respected | Disciplinary action |
| Caldicott | Security and confidentiality of personal health and social care information for patients and service users | See Code of Conduct and further information available from the A/T/P Caldicott Guardian | Disciplinary action |
| Contract of employment | Employees responsibilities including security and confidentiality of any information accessed during the course of work | Comply with contract and Code of Conduct | Disciplinary action |

A completed copy of this form is to be kept in the personal file of each member of staff.
Advice and assistance in relation to Data Protection and Confidentiality issues can be sought from the Information Governance Department.

**Appendix 3**

## Equality Impact Assessment Tool

To be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

Would the relevant Equality groups be affected by the document? (If Yes please explain why you believe this to be discriminatory in Comment box)
Title & Identification Number of the Document : **Confidentiality Code of Conduct Corp/Pol/107**

| | **Questionnaire** | Yes/No Double click and select answer | Comments |
|---|---|---|---|
| **1** | Grounds of race, ethnicity, colour, nationality or national origins e.g. people of different ethnic backgrounds including minorities: gypsy travellers and refugees / asylum seekers. | No | |
| **2** | Grounds of Gender including Transsexual, Transgender people | No | |
| **3** | Grounds of Religion or belief e.g. religious /faith or other groups with recognised belief systems | No | |
| **4** | Grounds of Sexual orientation including lesbian, gay and bisexual people | No | |
| **5** | Grounds of Age older people, children and young people | No | |
| **6** | Grounds of Disability: Disabled people, groups of physical or sensory impairment or mental disability | No | |
| **7** | Is there any evidence that some groups are affected differently? | No | |
| **8** | If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable? | No | |
| **9** | Is the impact of the document/guidance likely to be having an adverse/negative affect on the person (s)? | No | |
| **10** | If so can the negative impact be avoided? | N/A | |
| **11** | What alternatives are there to avoid the adverse/negative impact? | **Please Comment** | |

| | | | |
|---|---|---|---|
| **12** | Can we reduce the adverse/negative impact by taking different action? | N/A | **Please Identify How** |

| | | |
|---|---|---|
| **13 Q1** (a) **Is the document directly discriminatory?**<br>No<br>(under any discrimination legislation)<br>• Racial Discrimination<br>• Age Discrimination<br>• Disability Discrimination<br>• Gender Equality<br>• Sexual Discrimination | **Q2 (b) (i)** Is the document indirectly discriminatory?<br>No<br>**b (ii)** If you said yes , is this justifiable in meeting a legitimate aim<br>N/A | **Q3 (c)** Is the document intended to increase equality of opportunity by positive action or action to redress disadvantage<br>N/A<br>Please give details<br>To safeguard vulnerable adults |

**15** If you have answered **no** to all the above questions **1-13** and the document does not discriminate any Equality Groups please go to **section 15**

If you answered **yes** to Q1 (a) and **no** to Q3 (b) this is unlawful discrimination.

If you answered **yes** to Q2 (b) (i) **no** to Q2 (b) (ii) and **no** to Q3 (c), this is unlawful discrimination

**If the content of the document is not directly or indirectly discriminatory, does it still have an adverse impact?**

No

**Please give details**

**If the content document is unlawfully discriminatory, you must decide how to ensure the organisation acts lawfully and amend the document accordingly to avoid or reduce this impact**

**15** Name of the Author completing the Equality Impact Assessment Tool.

Name **Patricia Butcher**

Signature.....

Designation Information Governance Manager

Date **July 2011**