

Confidentiality

A guide for people who use our services



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This factsheet is to help you understand the way in which Cumbria Partnership NHS Foundation Trust looks after and safeguards the confidentiality of people using our services. It also tells you about your rights if we need to share information about yourself with other health and social care services, members of your family, carers or other organisations.

What is confidentiality?

Confidentiality is when personal information about you is given or received in private for a particular purpose or reason. Staff within the Trust must not pass this information on to anyone else or use it for a different purpose without your consent except in some specified circumstances.

Why information is collected

Everyone who comes into contact with our services has a right to expect that all information about them will be treated as confidential although there may be times when this information needs to be shared. In order to be able to provide the right kind of services for you we have to find out first of all, what your needs are. To do this, we collect information about you including some personal details.

Doctors, nurses, social workers and other health professionals caring for people need to keep records about the assessments and treatment given. This is essential to ensure that the best possible quality of care is provided.

Information may be written down in a record or may be held in a computer.

This information includes the following:

- Basic details about a person
- Contacts with healthcare services
- Notes and reports about health and any treatment received
- The results of investigations or tests
- Information from other professionals or carers.

All our staff are bound by a legal obligation to care for personal information given in trust under the Data Protection Act 1998, the Human Rights Act 1998 and the common law duty of confidentiality. They are also required to follow the policies and procedures of the Trust, the NHS Confidentiality Code of Practice and where appropriate, professional codes of conduct.

A breach of confidentiality by a member of staff can lead to disciplinary action and legal proceedings. The issue of confidentiality will be discussed with you at the



beginning of your care, and your views on information giving will be recorded in your care record.

How records and information are used

Records and information are needed to guide our staff in the care that they provide. The information needs to be accurate, up-to-date and complete for the following reasons:

- To ensure that full information is available when someone is referred to another doctor, nurse or service
- To help the care team decide on the type of care required
- To enable concerns to be properly investigated if a complaint is made

Information is used more generally to help develop and improve services in the following ways:

- To assess the needs of the general population
- To help plan future services
- To review the standards of care provided
- To teach and train doctors, nurses, social workers and other healthcare professionals
- To carry out health research and development
- To measure the performance of services
- To investigate complaints or incidents.

When information is used for providing statistics, we make sure that individual patients cannot be identified.

Anonymous statistical information may at times be passed to organisations involved in the planning and development of health and social care services, such as universities and government departments.

Where it is not possible to use anonymous information, personally identifiable information may be used for essential NHS purposes. These may include research and auditing services. This will only be done with your explicit consent.

The NHS Litigation Authority (NHSLA) assesses each NHS Trust every few years on the way they care for patients.

They do this by looking at a small number of health records. The assessors are not concerned with individual details and work to a strict code of confidentiality. If you do not wish your records to be made available for a NHSLA assessment, please tell your Care Coordinator.

How records are kept confidential

You have a right to expect that all information about you will be treated as confidential under the Data Protection Act 1998, the Human Rights Act 1998 and the

Common Law Duty of Confidentiality. There are times however, when this information does need to be shared. People may receive care from other organisations, for example, between the NHS and Social Care Services. Information about care may need to be shared to enable services to work together. Information will only be shared if there is a real need for this to take place.

Information however, will not be shared without your permission unless in exceptional circumstances. These include when the health or safety of others is at risk or where the law requires information to be passed on. Anyone who receives information about you is also under a legal duty to keep it confidential.

Who do we share information with?

The main organisations with which information is shared include the following:

- other NHS services
- adult social care services
- children's social services
- ambulance services
- general practitioners

Information may also be shared with other organisations which may include:

- education services
- voluntary sector services
- private sector providers

The sharing of information by these services is governed by strict agreements setting out how it will be shared and used.

How do we share information?

If we share personal information about you we have to follow a set of rules. These rules are taken from the 1998 Data Protection Act. We must also follow the NHS Code of Practice on Confidentiality 2003. All organisations we share information with also have to follow the rules.

How do you give your consent to share information?

You will be given details setting out why personal information about yourself may need to be shared with other professionals and services. Your Healthcare professional should take time to discuss and explain the need to share personal information. This will help you to identify what information you are agreeing can be shared with other organisations. It may be helpful to share some or all of information with members of your family or carers.

You will therefore be asked the information you wish to be shared with your family or carer as this will provide them with a greater understanding of your care needs.

Your views will be recorded within your care record and in your care plan. This will be accessible to all care staff associated with your care.

More information about information sharing with carers is set out in the leaflet 'Confidentiality: a guide for family and carers'.

What happens if you don't give your permission to share information?

You will be able to specify if there is any personal information you wish to be withheld. This view will be respected unless there are overriding considerations. This may include the statutory requirement that staff have to work together with other agencies as stated in the Children's Act 1989, the Mental Health Act 2007 and the Mental Capacity Act 2005. This may also be for medical research and checking the quality of care.

Special permission may also be given when the public good is thought to be of greater importance than your confidentiality.

This might happen when a serious crime has been committed, where there are serious risks to the public or our staff or in the protection of children.

This permission can only be given by the Caldicott Guardian, who is the Medical Director, the senior clinician responsible for ensuring that your privacy is protected. Your views will also be recorded in your care record. However, if you do decide that there is personal information that you do not wish to be shared with another organisation then this may affect the provision of services to you from that organisation.

How do children give consent?

Children under the age of 16 years, who in the view of the healthcare professional have the capacity and understanding to take decisions about their own treatment, are entitled to decide whether personal information may be passed on. This may be particularly relevant if a child does not wish his or her parent to know. However, the child should be encouraged to involve parents or other legal guardians.

What happens if you are not able to give consent?

If for any reason you are not capable of giving consent for information to be shared, you have the right to choose someone to make decisions about your health care. This is called a lasting power of attorney.

You can decide what rights that person has in making decisions about your care record. If you do not appoint someone, under the Mental Capacity Act 2005 a senior health care professional involved in your care may consider it to be in your best interests to share information.

This judgement should take account of the views of your relatives and carers and any views you have already recorded. The setting up of an advanced directive in collaboration with your Healthcare professional can provide people who care for you with an indication of your wishes about the sharing of information. This enables you to specify the details and to whom information may be disclosed when you are unwell.

Access to health records

The Data Protection Act 1998 allows you to access information about you that is held on computer and in manual records. This is known as the 'right of subject access'.

You are entitled to see what information is kept about you. Further information about how to see your care record can be found in the leaflet 'Can I see my health records'. To access your health records, a written request should be made to the Trust. It may be that in certain circumstances the right to see some details in a health record may be limited.

Checklist for good practice in confidentiality and information sharing

Your care co-ordinator or healthcare professional must give you information about how the Trust ensures the confidentiality of your information. This checklist is to help you understand how information about yourself will be protected and used. Any questions should be discussed with your care co-ordinator or main healthcare professional.

- How will my personal information be protected?
- How will my personal information be used and disclosed?
- What information will be shared with my carers?
- What choices do I have to restrict disclosure of my information?
- What are the implications of restricting disclosure?
- How do I set up an advanced directive?
- What do I do if I wish to access my health records?

Further reading

[Data Protection Act 1998, HMSO](#)

[NHS Code of Practice on Confidentiality](#), Department of Health 2003

Confidentiality: a guide for family and carers, Cumbria Partnership NHS Foundation Trust

Can I see my health records? Cumbria Partnership NHS Foundation Trust

[Carers and Confidentiality in Mental Health: issues involved in information sharing.](#)

Partners in Care Rethink policy statement 27 Confidentiality and Information Sharing, www.rethink.org

[The Care Record Guarantee](#) – The Department of Health's guarantee for NHS care records in England

How to report concerns about confidentiality

The Trust takes the need to protect your personal information very seriously. If you feel that your confidentiality has been breached then you should raise your concerns through the Trust complaints procedure.

This can be done either by contacting the Complaints Manager in the **Patient Experience Team**: (PET) Cumbria Partnership NHS Foundation Trust, The Coppice, Carleton Clinic, Cumwhinton Drive, Carlisle CA1 3SX

Freephone: 0800 633 5547
Landline: 01228 608257
Text: 07827 312 699
Email: PET@cumbria.nhs.uk

Or by writing to the **Chief Executive**, Cumbria Partnership NHS Foundation Trust, Voreda, Portland Place, Penrith, CA11 7QQ

Further information

For further information about the way information is used within Cumbria Partnership NHS Foundation Trust, please contact the **Head of Information Governance**, Cumbria Partnership NHS Foundation Trust, Maglona House, 68 Kingstown Broadway, Carlisle CA3 0HA

E: information.governance@cumbria.nhs.uk
T: 01228 608998

The Patient Experience Team (address above) offers confidential information and advice for anyone with concerns, queries or suggestions about NHS services.

If you would like this factsheet in another language or format, for example Braille, large print or audio, please call:
01228 603890

E:communications.helpdesk@cumbria.nhs.uk

Or write to Engagement and Communications
Voreda House | Portland Place | Penrith | CA11 7QQ



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