Northumberland, Tyne and Wear NHS Foundation Trust

FAIR PROCESSING NOTICE TO THE EMPLOYEES OF NORTHUMBERLAND, TYNE AND WEAR NHS FOUNDATION TRUST

(THIS NOTICE IS NOT APPLICABLE TO NTW SOLUTIONS LTD. EMPLOYEES)

INTRODUCTION

Northumberland, Tyne and Wear NHS Foundation Trust ("**the Trust**") is registered as a Data Controller with the Information Commissioner's Office (registration number Z9416280).

The Trust is committed to protecting the personal information of its employees. The purpose of this Notice is to notify you of the way the Trust collect, protect and handle your personal information.

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WHAT PERSONAL INFORMATION DO WE PROCESS?

In the course of your recruitment and employment with the Trust, we will collect information about you and your working relationship with us. All this information is called "**personal information**". It includes, but is not limited to, the following types of information:

- your name, contact details, gender, date of birth, nationality, national insurance number, your photograph, your marriage/partnership status and any dependents
- details of any leave you are entitled to, or have taken (including holiday, sickness absence and carers leave)

- details of your right to work in the UK (including a photocopy of your passport or other immigration document)
- details of your salary, bank details and any necessary tax reporting information
- details of your role, employment arrangements (i.e., working hours, part-time arrangements), length of service
- details of your qualifications, employment history, education and other relevant skills (i.e., the information provided when you joined the Trust and annual appraisals, personal development and training records.

This also includes information which attracts additional protections, which is called "**special categories of personal data**", previously referred to as sensitive person data. Such information includes, but is not limited to any information about:

- your health (e.g. including vaccination and immunisation) and any disability
- pregnancy or maternity
- your trade union membership
- your race, nationality and ethnic origin
- any past criminal convictions

HOW DO WE COLLECT YOUR INFORMATION

We collect personal information from a number of different sources, including:

- directly from you. For example, when you provide the Trust with information, submit a query to us including by email or post;
- images and video from CCTV cameras on Trust premises;
- from other organisations, such as previous employers, professional bodies;
- government agencies, such as the Police and local authorities where there are safeguarding concerns.

WHY DO WE COLLECT YOUR INFORMATION

We may use your information for a number of different purposes. For each purpose we must have a "legal ground" to use your personal information in such a way.

When the information that we process is classed as sensitive personal information/ special categories of personal data, we must have a specific, additional "legal ground" to process such information.

Generally we will rely on the following "legal grounds", as appropriate:

- We have a legal or regulatory obligation to use such personal information. For example, where our regulators require us to hold certain records of our dealings with you.

- We need to use your personal data in order to protect your vital interests or a third party. For example, in order to ensure your safety or the safety of others.
- We need to use your personal information for the performance of a task carried out in the public interest or in the exercise or our official authority. For example, in order to provide healthcare services.
- We need to use such personal information to establish, exercise or defend our legal rights. This might happen when we are faced with legal proceedings or want to bring legal proceedings ourselves.
- You have consented to the use of your personal data (e.g. in relation to how you would like to receive communications from the Trust). Without it, we may be unable to provide you with appropriate healthcare. We will always explain why your consent is necessary.
- Necessary for the purposes of legitimate interests.

You will find further details of our "legal grounds" for each of our processing purposes set out below.

General Management of Work Activities and Personnel

To include recruitment, appraisals, performance management, staffing decisions, administering salary, deciding on salaries and other remuneration, administering benefits such as salary sacrifice and Library & Knowledge Services, pension, training and periods of leave, providing references, transfer of your employment data if you move to another NHS organisation (streamlining), managing disciplinary and grievance processes, security challenges in respect of systems access, making reasonable adjustments to accommodate a disability, making travel arrangements and in commercial deals such as delivering services to other organisations.

<u>Legal grounds:</u>

- the use is necessary for compliance with a legal obligation to which the Trust is subject
- necessary for the performance of a contract
- we need to use the information to protect your vital interests or the vital interests of a third party
- the use 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 e.g. in order to provide you or another with healthcare services
- Necessary for the purposes of legitimate interests
- You have given us your consent

<u>Additional legal grounds for sensitive personal information / special categories of personal data:</u>

- we need to use the information to protect your vital interests or the vital interests of a third party and you or the third party are physically or legally incapable of giving consent
- we need to use the information for reasons of substantial public interest
- the use is necessary for the purposes of preventive or occupational medicine, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services
- processing is necessary for reasons of public interest in the area of public health, such as ensuring high standards of quality and safety of health care
- You have given explicit consent.

Ensuring Business Continuity

To include maintaining business records, strategic planning and management and ensuring the Trust delivers services in accordance with regulatory and/or professional standards.

Legal grounds:

- the use is necessary for compliance with a legal obligation to which the Trust is subject
- we need to use the information to protect your vital interests or the vital interests of a third party
- the use 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 e.g. in order to provide you or another with healthcare services
- You have given us your consent.

Additional legal grounds for sensitive personal information / special categories of personal data:

- we need to use the information to protect your vital interests or the vital interests of a third party and you or the third party are physically or legally incapable of giving consent
- we need to use the information for reasons of substantial public interest
- the use is necessary for the purposes of preventive or occupational medicine, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services
- processing is necessary for reasons of public interest in the area of public health, such as ensuring high standards of quality and safety of health care
- You have given explicit consent.

Complying with Legal and Regulatory Requirements

To include making tax and national insurance deductions, complying with audits, defending or pursuing litigation and other record keeping and reporting obligations.

Legal grounds:

- the use is necessary for compliance with a legal obligation to which the Trust is subject
- necessary for the performance of a contract
- we need to use the information to protect your vital interests or the vital interests of a third party
- the use 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 e.g. in order to provide you or another with healthcare services
- You have given us your consent.

Additional legal grounds for sensitive personal information / special categories of personal data:

- we need to use the information to protect your vital interests or the vital interests of a third party and you or the third party are physically or legally incapable of giving consent
- we need to use the information for reasons of substantial public interest
- processing is necessary for reasons of public interest in the area of public health, such as ensuring high standards of quality and safety of health care
- You have given explicit consent.

Safeguarding purposes (for example, in order to ensure the health and safety of an individual)

Legal Grounds

- the use is necessary for compliance with a legal obligation to which the Trust is subject
- we need to use the information to protect your vital interests or the vital interests of a third party
- the use 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 e.g. in order to provide you with healthcare services

Additional legal grounds for sensitive personal information:

- we need to use the information to protect your vital interests or the vital interests of a third party and you or the third party are physically or legally incapable of giving consent
- necessary in protecting an individual from neglect or physical, mental or emotional harm and protecting the physical, mental or emotional wellbeing of an individual
- we need to use the information for reasons of substantial public interest.

Preventing and investigating fraud. This might include sharing your personal information with third parties such as the police or fraud prevention agencies, for example, NHS Counter Fraud Authority or Audit One.

Legal Grounds

- the use is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Trust
- Necessary for the purposes of legitimate interests
- you have given us your consent

Additional legal grounds for sensitive personal information:

- we need to use the information for reasons of substantial public interest
- You have given explicit consent

WHO DO WE SHARE YOUR INFORMATION WITH?

We may share your personal information with others. We will keep your personal information confidential and only share it with those listed below for the purposes explained in the previous section.

- NTW Solutions Limited

  The Trust has set up a wholly owned subsidiary company named NTW Solutions Limited and this company is contracted to provide certain workforce services to the Trust, including the handling of payroll information and changes to the Electronic Staff Record (ESR) system. As such, NTW Solutions Limited will have access to personal data of Trust employees for the purpose of providing such workforce services. Your personal data will be shared with NTW Solutions Limited to the extent it is required in connection with the services being provided to the Trust.

- Capsticks (Disciplinary and Grievance)
- Professional bodies (GMC, NMC)
- Our regulators including CQC and Monitor
- Department of Health
- References to other organisations/TUPE
- Disclosure and Barring Service (DBS)
- Occupational Health

- Safeguarding Local Authority
- Police
- Fraud detection agencies and other third parties who operate and maintain fraud detection registers

What marketing or fundraising activities do we carry out?

Your personal information will only be used for the above purposes. It will never be used for marketing or insurance purposes.

What automated decision-making ('profiling') do we carry out in relation to your personal information?

An automated decision is a decision made by computer without any human input. The Trust currently do not carry out automated decision-making ('profiling') in respect of your personal information.

HOW LONG DO WE KEEP YOUR PERSONAL INFORMATION?

We will only keep your personal information for as long as reasonably necessary to fulfil the relevant purposes set out in this Notice and to comply with our legal and regulatory obligations.

The exact time period will depend on your relationship with us and the type of personal information we hold.

The Trust follows the NHS Digital Records management: NHS code of practice (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/records-management-code-of-practice-for-health-and-social-care-2016). A hard copy is available on request. This provides further information regarding the periods for which your personal information will be stored and explains where the requirements may vary for some types of record.

If you require any further information about the periods for which your personal information is stored, please contact us using the details below.

INTERNATIONAL DATA TRANSFERS

The Trust (and third parties acting on its behalf) does not currently store or process information that we collect about you in countries outside the European Economic Area ("EEA"). However, if this changes the Trust will take the required steps to ensure that your personal information is protected.

YOUR RIGHTS

Under data protection law you have certain rights in relation to the personal information that we hold about you. These include rights to know what information we hold about you and how it is used.

You may exercise these rights at any time by contacting us using the details below in order to obtain an application form. Please note that you will need to provide something to help us identify you, such as a copy of your driving license or passport and something with your name and address on such as a utility bill.

You should normally have access to your information within one month of receipt of a valid request for access to information and there will not usually be a charge for handling a request to exercise your rights.

If we do not comply with your request to exercise your rights we will usually tell you why.

If you make a large number of requests or it is clear that it is not reasonable for us to comply with a request then we do not have to respond. Alternatively, we can charge for responding.

Your rights include:

The Right to Access Information

You are usually entitled to a copy of the personal information we hold about you and details about how we use it.

Your information will usually be provided to you in writing, unless otherwise requested. If you have made the request electronically (e.g. by email) the information will be provided to you by electronic means where possible.

Please note that in some cases we may not be able to fully comply with your request, for example if your request involves the personal data of another person and it would not be fair to that person to provide it to you, or disclosure would cause you or a third party serious harm.

You are entitled to the following under data protection law:

- We must usually confirm whether we have personal information about you. If we do hold personal information about you we usually need to explain to you:
    - The purposes for which we use your personal information
    - The types of personal information we hold about you
    - Who your personal information has been or will be shared with, including in particular organisations based outside the EEA.
    - If your personal information leaves the EU, how we make sure that it is protected
    - Where possible, the length of time we expect to hold your personal information. If that is not possible, the criteria we use to determine how long we hold your information for
    - If the personal data we hold about you was not provided by you, details of the source of the information

- Whether we make any decisions about you solely by computer and if so details of how those decision are made and the impact they may have on you
- Your right to ask us to amend or delete your personal information
- Your right to ask us to restrict how your personal information is used or to object to our use of your personal information
- Your right to complain to the Information Commissioner's Office

We also need to provide you with a copy of your personal data.

The Right to Rectification

We take reasonable steps to ensure that the information we hold about you is accurate and complete. However, if you do not believe this is the case, you can ask us to update or amend it. There are some exceptions to this right which can be applied by the Trust, for example where it is necessary for the performance of a task carried out in the public interest or in the exercise of the Trust's official authority. In some circumstances the Trust may rectify you information, by adding a supplementary statement to your records.

The Right to Erasure (otherwise known as the "right to be forgotten")

In some circumstances, we must delete your personal information if you ask us to. We do not have to comply with all requests to delete personal information. For example, we do not have to comply if we need to retain your personal information in case you make a legal claim against us.

The Right to Restrict Processing

You also have the right to restrict processing in certain circumstances, for example where you think that the personal information we hold about you may be inaccurate or where you think that we no longer need to use your personal information. If you exercise this right then the Trust will stop any further processing, but may continue to store your personal data. There are exceptions to this right which can be applied by the Trust, for example where the Trust can demonstrate compelling and overriding legitimate grounds to continue, where the processing is necessary for the establishment, exercise or defence of legal claims or for the protection of the rights of another natural or legal person or for reasons of important public interest.

The right to data portability

In certain circumstances, you have the right to ask that we transfer personal information that you have provided to us to another third party of your choice. The information must be transferred in an electronic format.

The right to object to marketing

You can ask us to stop sending you marketing messages at any time and we must comply

with your request. However, the Trust does not currently send marketing messages.

The Right to Object to Processing

In some circumstances you have the right to object to our use of your personal information and we must stop using it in that way. Even these cases, we sometimes can continue to use your personal information, for example if this is necessary to defend a legal claim brought against us.

The right not to be subject to automated decisions (i.e. decisions that are made about you by computer alone)

You have a right to not be subject to automatic decisions (i.e. decisions that are made about you by computer alone) that have a legal or other significant effect on you.

However, the Trust does not currently make automated decisions.

The right to withdraw consent

In some cases we need your consent in order for our use of your personal information to comply with data protection legislation.

We have explained in the purposes section where we may rely on your consent in this way. Where we do this, you have the right to withdraw your consent to further use of your personal information. You can do this by contacting us using the details below. We will explain the consequences of the withdrawal of consent to you.

The right to complain to the Information Commissioner's Office

You can complain to the Information Commissioner's Office (ICO) if you are unhappy with the way that we have dealt with a request from you to exercise any of these rights, or if you think we have not complied with our legal obligations.

More information can be found on the Information Commissioner's Office website: https://ico.org.uk/

Making a complaint will not affect any other legal rights or remedies that you have.

CHANGES TO THIS NOTICE

The Trust will notify you of any changes to the information contained in this Notice, for example if the Trust alters the purposes for or legal bases under which it processes your personal data or wishes to transfer your information to new recipients or outside of the United Kingdom.

CONTACT US

Further Information

- For further information about how the Trust uses your personal information, you can refer to your manager or the Trust's website: https://www.ntw.nhs.uk/.

- You can also contact the Data Protection Officer for the Trust.

  Data Protection Officer
  Information Governance & Medico Legal

  St Nicholas Hospital
  Jubilee Road

  Gosforth

  NE3 3XT
  Phone: 0191 2466896
  Email: DPO@ntw.nhs.uk

- If you have any concerns about the way the Trust is using or sharing your information, you can speak to your clinical team or the Data Protection Officer in the first instance.