

## Fair Processing Notice for Staff

### What is a Fair Processing Notice?

A Fair Processing Notice is also known as a Privacy Notice or statement. It is a statement by the Trust to staff which describes how we collect, use, retain and disclose personal information which we hold. The purpose of this fair processing notice is to set out how we process personal information/data fairly and lawfully.

### What information do we collect about you?

The Trust collects and processes a range of information about you in order to manage your employment relationship with the Trust. The information we hold about you will also enable the Trust to comply with the employment contract and other legal requirements.

The information the Trust collects includes the following:

- your name, address and contact details which includes email addresses, telephone numbers, date of birth and gender
- the terms and conditions of your employment
- details of your qualifications, skills, experience and employment history which includes start and end dates with previous employers and with the Trust
- information about your remuneration, including entitlement to benefits such as pensions or insurance cover
- details of your bank account and national insurance number;
- information about your marital status, next of kin, dependents and emergency contacts;
- information about your nationality and entitlement to work in the UK;
- information about your criminal record;
- details of your schedule (days of work and working hours) and attendance at work;
- details of periods of leave taken, including holiday, sickness absence, family leave, sabbaticals etc.
- details of any disciplinary or grievance procedures in which you have been involved, including any warnings issued to you and related correspondence;
- assessments of your performance, including appraisals, performance reviews and ratings, performance improvement plans and related correspondence;
- information about medical or health conditions, including whether or not you have a disability for which the trust needs to make reasonable adjustments; and
- equal opportunities and monitoring information including information about your ethnic origin, sexual orientation, health and religion or belief.

The Trust may collect this information in a variety of ways e.g. data may be collected through job application forms or CV's etc. In some cases, the Trust may collect personal data about you from third parties, such as references supplied by former employers, information from credit reference agencies and information from criminal records checks permitted by law.

## **How do we keep your records confidential?**

By law, the Trust must ensure it keeps your personal information confidential in accordance with the common law duty of confidence. Recent changes in Data Protection law impose greater obligations on organisations that use and collect personal information.

The Trust also has a responsibility to manage your records appropriately in accordance with the Records Management Code of Practice for Health and Social Care 2016 which sets out the steps that organisations must, should and may take to ensure that confidential information is handled appropriately.

In accordance with the Records Management Code of Practice for Health and Social Care 2016 your personal data will be stored for the period of 6 years or until your 75<sup>th</sup> birthday (whichever is sooner) after you have left the employment of the Trust.

Where you have been involved in a litigation case at the Trust whether it involves a claim made against you or was an investigation carried out involving you during your employment, this information will be stored for a period of 10 years upon closure of the case.

## **Why do we process your personal data?**

The Trust needs to process data in order to enter into an employment contract with you and meet its obligations under your employment contract. For example, it needs to process your data to provide you with an employment contract and pay you in accordance to it.

The Trust may need to process data to ensure that it is complying with its legal obligations particularly under the General Data Protection Regulations (GDPR) and Data Protection Act 2018.

Data Processing is required to check an employee's entitlement to work in the UK, deduct tax and to comply with health and safety laws to enable you to take periods of leave to which you are entitled to.

In other circumstances, The Trust has a legitimate interest in processing personal data before, during and after the end of the employment relationship. The processing of employee data permits the trust to:

- undertake recruitment and promotion processes
- maintain accurate and up-to-date employment records and contact details
- operate and keep a record of disciplinary and grievance processes
- operate and keep a record of employee performance
- operate and keep a record of absence and absence management procedures
- obtain occupational health advice to ensure it complies with duties in relation to individuals with disabilities, meet its obligations under health and safety law and ensure employees receive pay or other benefits they are entitled to
- operate and keep a record of other types of leave
- ensure efficient HR and business administration
- provide references on request for current or former employees
- respond to and defend legal claims
- maintain and promote equality and diversity in the workplace

In some circumstances, data can be categorised as that of a 'special category'. Special category personal data includes information about health or medical conditions and is processed to carry out employment law obligations.

The Trust processes other special categories of personal data such as information about sexual orientation, ethnicity or origin, health, religion or belief which is processed for the purpose of equal opportunities monitoring.

### **Who do we share your information with?**

When required the Trust will disclose information with third parties and / or other NHS Trusts. We will only release information about you to a third party if the Trust is legally required to do so, where the Trust needs to comply with its contractual duties to you, or where a legitimate interest exists.

For example, the Trust may need to pass on certain information about you to its external payroll provider (NHS Shared Business Services), pension provider, occupational health (PAM), Department of Health, regulatory bodies, HRMC and / or any other applicable government bodies and professional advisors (e.g. solicitors and accountants).

There are also occasions where the Trust is required by law to share your information with organisations responsible for auditing or administering public funds in order to prevent and detect fraud.

In addition there are a number of circumstances where we must or can share your information in order to comply with or manage the following:

- Disciplinary / investigation processes including referrals to professional bodies (e.g. Nursing and Midwifery Council and the General Medical Council)
- Legislative and / or statutory requirements
- Court orders
- NHS counter fraud
- Requests for information from the police and other law enforcement agencies for the prevention and detection of crime, and / or fraud if the crime is of a serious nature

### **What systems are used by the Trust to ensure staff compliance with policy?**

The Trust monitors computer, internet, email, and telephone usage as detailed in the ICT Policy which is available via the policy library on Connect.

Areas that require staff to use swipe card access are also monitored. The Trust uses closed circuit television (CCTV) to monitor and record activities for the purposes of safety and security.

## **Your rights**

The GDPR and Data Protection Act 2018 provides the following rights for individuals:

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. Rights in relation to automated decision making and profiling

More information on individual rights can be found at the Information Commissioner's Office whose details are below.

## **Access to records**

An individual has the right to request access to or copies of, information we hold about them. This is in line with Data Protection Act. If you would like to know what information we hold about you, please address your request to the Trust's Data Protection Officer.

In accordance with the Data Protection Act, you have the right to receive a copy of the information you request free of charge. However, we reserve the right to charge a 'reasonable fee' when a request is manifestly unfounded or excessive, particularly if it is repetitive. We may also charge a reasonable fee to comply with requests for further copies of the same information.

In some cases, we may refuse your request. This should only happen if we believe that seeing parts of the information we hold could cause you serious harm, cause harm to another person, or if your records would give personal information about someone else.

Where requests are deemed manifestly unfounded or excessive, we reserve the right to refuse to respond. If the Trust refuses to respond to a request, we will explain why and will inform you of your right to complain to the supervisory authority.

## **Your duty to inform us of changes**

It is important that the personal data we hold about you is accurate and current. Therefore please ensure you keep us informed if your personal information changes during your working relationship with us.

## **Further information**

To learn more about how we use your information, please contact the Trust's Head of Information Governance/Data Protection Officer.

Head of Information Governance/Data Protection Officer  
Information Governance Team  
Birmingham and Solihull Mental Health NHS Foundation Trust  
Unit 1, B1, 50 Summer Hill Road  
Birmingham  
B1 3RB  
Email: [bsmhft.informationgovernance@nhs.net](mailto:bsmhft.informationgovernance@nhs.net)

### **Regulatory information**

Please note, the Trust's ICO's number is: **Z7693877**

For further guidance or information, please contact the Information Commissioner's Office via their website or address:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
SK9 5AF  
Website: <https://ico.org.uk/>