



NHS

**Birmingham and Solihull
Mental Health**
NHS Foundation Trust

Privacy notice

What service users need to know



What is a privacy notice?

A **privacy notice** or **statement** is a statement from our Trust to service users, visitors, carers, families, the public and staff that describes how we collect, use, retain and disclose personal information which we hold. The purpose of this privacy notice is to explain how we process personal information or data fairly and lawfully.

Why do we collect information about you?

Your records are used to help us give you the best possible care. Records are kept in paper format and electronically. They are used to help staff care for you, by ensuring that:

- they have the right information on your health to help judge what care you need
- they can make proper arrangements for your care, for instance to get you further appointments or visits
- new or different doctors, or other health staff involved in your care have, an up-to-date picture. This might include your GP or a specialist in another part of the NHS
- we can look into what has happened if you are worried about your treatment or wish to complain.



Your information – how we use it

We use your information as follows, though this is not an exhaustive list:

- To ensure that your treatment is safe and effective.
- To help us make decisions about your care.
- We may use and record information which you make public via social media to help us ensure your care plan is appropriate. We will not access any information which has not been made public.
- To facilitate effective communication with other organisations who may be involved in your care.
- To help improve upon the quality and standards of care we provide.
- To ensure we can meet your future needs.
- For research and audit purposes.
- In order to train healthcare professionals and improve quality.
- To provide statistics on our overall NHS performance.
- To effectively monitor how we utilise public funds.
- To help identify any risk areas in the Trust.
- To help plan services across the organisation.
- To help evaluate local and national NHS and social care policies.
- To monitor safety.



How do we keep your records confidential?

By law, everyone working in the NHS must keep service users' personal information confidential in accordance with the common law duty of confidence and the NHS Confidentiality Code of Conduct. Recent changes in data protection law through the introduction of the new EU directive; General Data Protection Regulation (GDPR) and the UK Data Protection Act 2018 have imposed greater obligations on organisations who use and collect personal information.

Your records can only be seen or changed in any way by authorised staff.

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.

What is the lawful basis for us processing your information?

As relying on consent may not always be possible, an alternative lawful basis in Data Protection exists to allow the Trust to process your information for the performance of a task carried out in the public interest or in the exercise of our official authority.

This means that it must be necessary for the data controller (us) to process your personal data for those purposes (it is reasonable, proportionate and we cannot achieve our objective by some other reasonable means) and the data controller (us) can point to a clear and foreseeable legal basis for that purpose under UK law (whether in statute or common law).

Other alternative conditions may be applicable where the above is not available. For example, in the event of a life or death situation such as preventing harm being caused by a service user, or if the processing relates to personal information that has been made public by you.



Sharing for research and planning

Most of the time, anonymised data is used for research and planning so that you cannot be identified in which case your confidential service user information isn't needed.

You have a choice about whether you want your confidential service user information to be used to support research and planning. If you are happy with this use of information you do not need to do anything.

If you do choose to opt out of allowing the sharing of your information for research and planning purposes your confidential service user information will still be used to support your individual care.

To find out more or to register your choice to opt out, please visit: www.nhs.uk/your-nhs-data-matters.

On this web page you can:

- see what is meant by confidential service user information
- find examples of when confidential service user information is used for individual care and examples of when it is used for purposes beyond individual care
- find out more about the benefits of sharing data
- understand more about who uses the data
- find out how your data is protected
- access the system to view, set or change your opt-out setting
- find the contact telephone number if you want to know any more or to set or change your opt-out by phone. See the situations where the opt-out will not apply.

Further information on how service user data is used in health and care research is available at:
www.hra.nhs.uk/information-about-patients

To find out more about how and why service user information is used, the safeguards and how decisions are made, visit:
www.understandingpatientdata.org.uk/what-you-need-know

You can change your mind about your choice at any time.

Data being used or shared for purposes beyond individual care does not include your data being shared with insurance companies or used for marketing purposes and data would only be used in this way with your specific agreement.

Health and care organisations have until 2020 to put systems and processes in place so they can apply your national data opt-out choice.

If you have concerns about how your information is handled, or feel you will be put at risk by the disclosure of any information, please contact the Head of Information Governance/Data Protection Officer for more information. See page 11 for details.

Our Trust is also a member of the UK Clinical Record Interactive Search (CRIS) system which is a computer system developed to allow researchers to conduct research using large amounts of information from the electronic medical records. UK CRIS is safe and secure and all service user information is depersonalised and researchers will not have access to any personal information or personal details.

To view the privacy notice for CRIS, please see the Trust's website (www.bsmhft.nhs.uk) or contact our Research and Innovation Team for further information (bsmhft.researchandinnovation@nhs.net).

Right to access information we hold

Every service user has the right to request access to or copies of, information we hold about them. This is known as a subject access request (SAR). The information held may be stored in various formats such as paper records, electronic records including digital imaging, video, photographs, X-ray or by any new or existing medium. Usually everyone can see the information that is kept in their own records.

If you would like to know what is in your records, you have a right to see them under the Data Protection Act.

If you would like to access your records, you may do so by submitting a subject access request. Please address your request to:

Information Requests

Birmingham and Solihull Mental Health NHS Foundation Trust

Unit 1, B1, 50 Summer Hill Road

Birmingham

B1 3RB

Alternatively, email to bsmhft.informationrequests@nhs.net.

Please note we cannot guarantee the security of information whilst in transit.

Please note, the Data Protection Act applies only to living persons. However, there are limited rights of access to personal data of deceased persons in accordance with the Access to Health Records Act 1990.

In accordance with data protection, 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 unreasonable 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. However, we will not charge for all subsequent subject access requests. You have a right to get a photocopy of your records.

In some unusual cases, you may be shown only part of your records, or we may even have to refuse your request. This should only happen if we believe that seeing parts of your records 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 unreasonable or excessive, we also 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 within one calendar month.



Amending records

If you think that anything in your record is incorrect, you have the right to have your personal data rectified. Please make a request to the Head of Information Governance/Data Protection Officer (see details on the next page) explaining what you believe to be inaccurate or incomplete. This request can be made verbally or in writing and we will respond to your request within one calendar month.

In certain circumstances, we can refuse a request for rectification. These circumstances are if the request is unreasonable or excessive, taking into account whether the request is repetitive in nature. If we do refuse your request, we will provide justification around our decision and inform you within one calendar month of receipt of the request.



Your rights

Data protection legislation 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.

For more information on individual rights, please consult the Information Commissioner's Office guidance.

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

Regulatory information

Please note, the Trust's ICO registration 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: ico.org.uk

www.bsmhft.nhs.uk

Main switchboard: 0121 301 0000