

THE ATRIUM HEALTH CENTRE
PATIENT POLICY

Title: Confidentiality and Caldicott Guardian
Review Date: July 2023 **Version:** 1.0

Introduction

Policy statement

All staff working in the NHS are bound by a legal duty of confidence to protect personal information they may encounter during their work. This is not purely a requirement of their contractual responsibilities; it is also a requirement within the common law duty of confidence and the NHS Care Record Guarantee. The latter is produced to assure patients regarding the use of their information.¹

Lastly, all staff are to fully understand the requirement to adhere to the Caldicott principles which are designed to safeguard and govern the use of patient information in all health and social care organisations.

Status

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](#) and the [Gender Recognition Act 2004](#). Consideration has been given to the impact this policy might have with regard to the individual protected characteristics of those to whom it applies.

This policy outlines the principles that are to be adhered to by all staff at the Atrium Health Centre to understand the requirement for effective controls of personal confidential data (formerly patient identifiable information).

All employees must, from the beginning of their employment with the organisation and after the termination of their employment with the organisation, observe strict confidentiality and non-disclosure in respect of any information held by the organisation, except when required or authorised to disclose such information by the organisation or by law.

The reputation and continuing ability of the organisation to work effectively in the position of trust and responsibility it holds (which is also reflected in the trust and responsibility held by those persons engaged by the organisation to work on its behalf) rely on confidential information being held as confidential. It must not be improperly disclosed and must be used only for the purpose for which such information was gathered.

Any breach of confidentiality, particularly involving data, could have major negative consequences for the practice and the individual. The organisation will therefore take the appropriate disciplinary action against any employee who commits a breach of confidentiality by reporting it to the organisation's Data Protection Officer (DPO). Where it is a serious breach, the DPO will be bound to recommend that it is reported to the Information Commissioner's Office (ICO) who may, in turn, institute criminal proceedings against the individual and, if found to be negligent, the organisation itself. The individual, if found guilty, will be required to pay a fine and acquire a criminal record and the organisation may be heavily fined if found guilty.

Nothing in this policy prevents an employee or other individual making a protected disclosure under the [Public Interest Disclosure Act 1998](#) in respect of any malpractice or unlawful conduct.

¹ [NHS E Confidentiality Policy](#)

THE ATRIUM HEALTH CENTRE

PATIENT POLICY

The Caldicott principles are derived from the Dame Fiona Caldicott Information Governance Review in 2013² which now forms the current Caldicott Guardian guidance that was published in September 2021 from the National Data Guardian (NDG)³.

Definition of terms

Data Protection Act and UK GDPR

The UK GDPR came into effect as of 1 January 2021, replacing the EU GDPR which had been in place since 25 May 2018. The UK GDPR is incorporated as Part 2 within the [Data Protection Act 2018](#) (DPA18). Further reading can be found in the [UK GDPR policy](#).

Confidentiality

The principle of keeping secure and secret from others, information given by or about an individual during a professional relationship⁴

Confidential information

“Confidential information” means any information processed by the organisation or supplied (whether supplied in writing, orally or otherwise) by the organisation or gathered by an individual in relation to the performance of his/her duties that is marked as “confidential”.

Confidential information in relation to patients is defined in NHS Digital’s operational guidance document⁵ and is also defined within the [National Health Service Act 2006](#).

Protected disclosure

The protected disclosure of unlawful conduct, malpractice or wrongdoings within the organisation is commonly known as “[whistleblowing](#)”.

Personal confidential data

This is information that contains the means to identify a person, e.g., name, address, postcode, date of birth, NHS number, etc.⁶

Caldicott principles

Caldicott principles apply to the use of confidential information within health and social care organisations and when such information is shared with other organisations and between individuals, both for individual care and for other purposes. Further information on the Caldicott principles can be found at [Section 4.4](#).

Caldicott Guardian

The Caldicott Guardian is to provide leadership and informed guidance on complex matters involving confidentiality and information sharing. This role is key in ensuring that the Atrium Health Centre satisfies the highest practical standards for handling personal confidential data information.

UK Caldicott Guardian Council (UKCGC)

The UKCGC is the national body for Caldicott Guardians within the UK. The [UK Caldicott Guardian Council](#) provides support for Caldicott Guardians and others fulfilling the Caldicott function within the organisation. The UKCGC helps to uphold the eight Caldicott principles.

² [The Information Governance Review \(Information: To share or not to share?\)](#)

³ [NDG - Caldicott Guardian guidance v1.0](#)

⁴ [BMJ](#)

⁵ [NHS Digital’s operational guidance document A6.1: What is Confidential Patient Information?](#)

⁶ [NHS E Confidentiality Policy](#)

British Medical Association

The [British Medical Association](#) (BMA) is the trade union and professional body for doctors in the United Kingdom.

Care Quality Commission

The Care Quality Commission (CQC) is the independent regulator of health and adult social care in England. The CQC makes sure that health and social care services provide people with safe, effective, compassionate, high-quality care and encourages services to improve.⁷

Data security and protection toolkit (DSPT)

The [NHS Data Security and Protection Toolkit](#) version 4 (2021/22) is an online self-assessment tool that enables the practice to assess its performance against the 10 data security standards of the National Data Guardian. This is a mandatory requirement which will ensure compliance in line with UK GDPR.

Guidance

Confidentiality

All employees at the Atrium Health Centre must, from the date of the commencement of employment or other form of engagement, and thereafter, observe strict confidentiality in respect of any information held by the organisation and by each individual working on behalf of the organisation. This includes dealings, transactions, procedures, policies, decisions, systems and other matters of a confidential nature concerning the organisation and its affairs.

Other than in the proper course of their duties, employees must not, either during or at any time after the termination of their employment, exploit or disclose confidential information. In addition, employees must not, through negligence, wilful misconduct, or inadvertence, allow the use, exploitation or disclosure of any confidential information relating to the affairs of the organisation, its patients, partners, employees, contractors, business partners or suppliers.

Non-disclosure of information

It is an obligation upon all employees of the Atrium Health Centre to maintain information in confidence and not, directly or indirectly, disclose it other than for the purposes it was gathered. Any such information in the possession of an individual, either in electronic format or hard copy, shall be returned to the organisation before or at the point in time that employment ceases, however such cessation occurs.

Third-party requests for information

If any employee is approached by a third party, including any media source, and asked to make comments or provide information relating to the organisation and its affairs (or the affairs of its patients, partners, employees, contractors or any business associate) they must not, under any circumstances, respond without having sought permission and guidance.

Whistleblowing or protected disclosures

In respect of any malpractice or unlawful conduct, any employee of the Atrium Health Centre is entitled to submit a protected disclosure under the organisation's Whistleblowing Policy.

Legislation in the UK was enacted by the Public Interest Disclosure Act 1998 to enable employees and other persons such as agency temporary workers to disclose genuine concerns, especially those that seem to involve unlawful conduct or malpractice. The legislation also protects them from any form of victimisation arising from making such a disclosure.

⁷ [CQC - About us](#)

Confidentiality and non-disclosure agreement

All persons engaged to work for and on behalf of the Atrium Health Centre and visitors to the practice are required to sign a confidentiality and non-disclosure agreement.

Caldicott Guardian role

A Caldicott Guardian's role is a senior person within a health or social care organisation who ensures that personal information about those who use its services is used legally, ethically and appropriately and that confidentiality is maintained.

The Caldicott Guardian's main concern is information relating to individuals and their care. Additionally, this need for confidentiality also extends to other individuals and this includes relatives, staff and others.

Caldicott principles

There are 8 Caldicott Principles;

- **Principle 1:** Justify the purpose(s) for using confidential information. Every proposed use or transfer of confidential information should be clearly defined, scrutinised and documented with continuing use regularly reviewed by an appropriate guardian.
- **Principle 2:** Use confidential information only when it is necessary. Confidential information should not be included unless it is necessary for the specified purpose(s) for which the information is used or accessed. The need to identify individuals should be considered at each stage of satisfying the purpose(s) and alternatives used where possible.
- **Principle 3:** Use the minimum necessary confidential information. Where the use of confidential information is considered to be necessary, each item of information must be justified so that only the minimum amount of confidential information is included as necessary for a given function.
- **Principle 4:** Access to confidential information should be on a strict need-to-know basis. Only those who need access to confidential information should have access to it and then only to the items that they need to see. This may mean introducing access controls or splitting information flows where one flow is used for several purposes.
- **Principle 5:** Everyone with access to confidential information should be aware of their responsibilities. Action should be taken to ensure that all those handling confidential information understand their responsibilities and obligations to respect the confidentiality of patient and service users.
- **Principle 6:** Comply with the law. Every use of confidential information must be lawful. All those handling confidential information are responsible for ensuring that their use of and access to that information complies with the legal requirements set out in statute and under common law.
- **Principle 7:** The duty to share information for individual care is as important as the duty to protect patient confidentiality. Health and social care professionals should have the confidence to share confidential information in the best interests of patients and service users within the framework set out by these principles.
- **Principle 8:** Inform patients and service users about how their confidential information is used. A range of steps should be taken to ensure no surprises for patients and service users so they can have clear expectations about how and why their confidential information is used and what choices they have about this. These steps will vary depending on the use.

Compliance

General

All staff at the Atrium Health Centre are to comply with the confidentiality requirements as detailed within the eight Caldicott principles.

THE ATRIUM HEALTH CENTRE

PATIENT POLICY

The patients of the Atrium Health Centre entrust staff to always uphold confidentiality, doing so with confidence. It is essential that patients are informed of the circumstances in which their personal confidential data may be shared to deliver safe and effective care.

NHS Confidential Code of Practice

All staff at the Atrium Health Centre are to adhere to the principles of confidentiality outlined in the [NHS Confidentiality Code of Practice](#) dated November 2003:

- Person-identifiable or confidential information must be effectively protected against improper disclosure when it is received, stored, transmitted or disposed of
- Access to person-identifiable or confidential information must be on a need-to-know basis
- Disclosure of person-identifiable or confidential information must be limited to the purpose for which it is required
- Recipients of disclosed information must respect that it is given to them in confidence
- If the decision is taken to disclose information, that decision must be justified and documented
- Any concerns about the disclosure of information must be discussed with your line manager
- Patients are to be informed of the intended use of their information and this organisation will adhere to the detailed requirements within the code.

The Atrium Health Centre will ensure that the requirements within the above Code of Practice are strictly followed and that staff will report any breaches of confidence or potential risks to either the Caldicott Guardian or Information Governance Lead immediately.

Practice privacy notices

The Practice Privacy Notice explains to patients the ways in which the practice gathers, uses, discloses and manages a patient's data. It fulfils a legal requirement to protect a patient's privacy.

Audit

With the advances of technology in healthcare, it is imperative that access is monitored and controlled in an effectual manner. Regular audits are therefore be undertaken. This will ensure that access to confidential information is gained only by those who are required to access it in the course of their normal duties.

All staff at the Atrium Health Centre have a responsibility to participate in such audits and to comply with the subsequent recommendations.

Confidentiality in practice

Good practice

The following actions at the Atrium Health Centre are undertaken to ensure that confidentiality is maintained:

- Person-identifiable information is anonymised so far as is reasonably practicable, whilst being mindful of not compromising the data
- Access to consulting rooms, administrative areas and record storage areas are restricted
- All staff maintain a clear desk routine. No patient confidential information is left unattended in any unsecured area, at any time
- All IT equipment is shut down at the end of the working day except any that is required to remain left on such as server equipment
- Confidential waste is shredded or disposed of appropriately
- Staff do not talk about patients or discuss confidential information in areas where they may be overheard

Abuse of privilege

The NHS Confidentiality Policy states the following:

- It is strictly forbidden for employees to knowingly browse, search for or look at any personal or confidential information relating to themselves, their own family, friends or other persons without a legitimate purpose. Action of this kind will be viewed as a breach of confidentiality and of the Data Protection Act 2018 and is dealt with accordingly.
- When dealing with person-identifiable or confidential information of any nature, staff are aware of their personal responsibility and contractual obligations and undertake to abide by the policies and procedures of NHS England.

Disclosure

Disclosing information

The following list describes circumstances when information can be disclosed:⁴

- When effectively anonymised in accordance with the Information Commissioner's Office Anonymisation Code of Practice
- When the information is required by law or under a court order. In this situation, staff discuss the matter with their line manager or Information Governance staff before disclosing who will then inform and obtain the approval of the Caldicott Guardian
- In identifiable form, when it is required for a specific purpose, with the individual's written consent or with support under the [Health Service \(Control of Patient Information\) Regulations 2002](#), obtained via application to the Confidentiality Advisory Group (CAG) within the Health Research Authority¹. This is referred to as approval under s251 of the [NHS Act 2006](#)
- In child protection proceedings if it is considered that the information required is in the public's or child's interest. In this situation, staff discuss the matter with their line manager or Information Governance staff before disclosing who will then inform and obtain the approval of the Caldicott Guardian
- When disclosure can be justified for another purpose; this is usually for the protection of the public and is likely to be in relation to the prevention and detection of serious crime. In this situation, staff discuss the matter with their line manager or Information Governance staff before disclosing who will then inform and obtain the approval of the Caldicott Guardian
- The patient both has the capacity to consent and consents to the disclosure.
- It is a legal requirement to disclose certain communicable diseases. The full list of these notifiable diseases can be sought at Annex L to the [Infection Prevention and Control Policy](#)

Summary

Confidentiality compliance will be continually monitored at the Atrium Health Centre.

It is important that all staff at the Atrium Health Centre are conversant and comply with all matters concerning confidentiality. Failure to do so could have far reaching effects on the confidence that patients have in the practice staff and their relationship with health professionals.

Additionally, all staff understand the importance of being aware of the action to be taken if they receive a request for information from third parties and the procedure to follow in the event that they wish to make a protected disclosure (whistleblowing).

All staff are aware of the Caldicott principles and that they have a duty to ensure they always remain compliant as confidentiality is the basis of trust between the patient and this organisation. All staff ensure that they are aware of their individual responsibilities and their duty to always maintain patient confidentiality.