# Data Protection Notice

**Health Protection Scotland and the Information Services Division of NHS National Services Scotland**

## Version Control Record

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**V6.0 Final**
27/02/2020
Who are we?

We are a Strategic Business Unit of NHS National Services Scotland (NHS NSS) incorporating Health Protection Scotland (HPS) and the Information Services Division (ISD). NHS NSS is a public organisation created in Scotland under Section 10 of the National Health Service (Scotland) Act 1978.

NHS NSS has a statutory responsibility to provide or arrange for the provision of a range of healthcare, health improvement and health protection services to promote the improvement of the physical and mental health of the people of Scotland and assist in operating a comprehensive and integrated national health service in Scotland.

More information about NSS is available at. https://nhsnss.org/how-nss-works/data-protection/  This Data Protection Notice has been produced by HPS and ISD and only relates to the work that they do.

What do we do?

In Health Protection Scotland (HPS) we plan and deliver effective and specialist national services which co-ordinate, strengthen and support activities aimed at protecting the people of Scotland from infectious diseases and environmental hazards. As part of this role we have a responsibility to monitor for the emergence of infectious disease and environmental hazards through careful analysis of results generated by partner laboratory, diagnostic and specialist services.

In the Information Services Division (ISD) we compile and use the potential of Scotland’s national health and care datasets, supporting decision-makers with information, intelligence and tools to assist in planning and managing local health and care services.

HPS and ISD provide health information, health intelligence, statistical services and advice to support those tasks.

What is this leaflet about?

This is our Data Protection Notice. It tells you about the way we collect, store and use personal information. It also tells you what your rights are under data protection law, how you can request to see your information and what to do if you have any concerns about our management of personal information.

What is Personal Information and Personal Health Information?

Personal information is information that identifies you. It includes things like your name, address, date of birth and postcode

If the information contains details of any health care you may have received it may be referred to as ‘special categories of personal data’. This can include information such as any care and treatment you have received and results of tests you have had as well as health and lifestyle information.
Why do we need to collect and hold your personal health information?

NHS Scotland staff need your personal information to allow them to provide care directly to you, to send out appointments and to provide prescriptions or other services. Information about you is also essential for HPS and ISD in order to understand the health of Scottish people as a group, so that best quality health and care services can be provided.

Having this information means that we can:

- assess how safe and effective a treatment is
- check that the NHS is providing a good service and spending public money properly
- plan how many beds, clinics and staff are needed
- monitor particular illnesses or diseases (epidemiology)
- carry out public health or clinical research
- report on performance against national treatment standards and targets required by the Scottish Government
- report on current and future costs and numbers of NHSScotland staff

Details about other uses made of personal information are available in the NHS NSS data protection notice available at https://nhsnss.org/how-nss-works/data-protection/

What is our legal basis for using personal health information?

We have to comply with the law to use your personal information. The laws that set out the tasks for which we must use personal information include:

- Under the National Health Service (Scotland) Act 1978, we have a legal duty to monitor and improve quality of health care and provide such services and carry out such tasks for bodies associated with the health service as Scottish Ministers and those bodies agree

- Under the National Health Service (Functions of the Common Services Agency)(Scotland) Order 2008, we can provide information, advice and management services in support of the functions of Scottish Ministers and the rest of NHSScotland – for example, manage information on prescriptions for drugs, medicines and appliances

- Under the Public Health Etc, (Scotland) Act 2008, NHS staff are required to notify Health Protection Scotland when someone contracts a specific (notifiable) disease and provide personal information about the person affected
• Under the Statistics and Registration Service Act (2007) and the Official Statistics (Scotland) Order 2008, we are a producer of official statistics set out in law. We therefore have a duty to produce and publish statistics relating to any matter relating to the United Kingdom or any part of it, and promote and assist statistical research.

We may also use information we hold to deliver our public task, for example by providing de-identified information for research that has been scrutinised and deemed to be in the public interest. Our public task also requires us to use information to report on the health of the population of Scotland for example, monitoring important public health problems such as cancer to better understand its causes and to find ways to prevent it. Personal information might be used in this analysis, although we would never release publicly any information that could identify an individual person.

Because the personal information we use relates to health, it is considered to be ‘special category’ information under the law. Our legal basis for using this special category information is usually that it is necessary for one of these reasons:

• For statistics, research and scientific purposes which respect people’s right to data protection; or

• For the provision of health or social care or treatment or the management of health or social care systems and services; or

• For reasons of public interest in the area of public health such as investigating outbreaks of illness, to monitor the effectiveness of health interventions such as vaccination programmes, and to identify new infectious or environmental threats to the health of the population; or

• For reasons of substantial public interest for aims that are proportionate and respect people’s rights; or

• In order to protect the vital interests of an individual; or

• For the establishment, exercise or defence of legal claims or in the case of a court order.

On rare occasions and for specific purposes we may rely on your explicit consent as our legal basis for using your personal information, for example maintaining our database of contact names and email addresses for our Scottish Public Health Observatory newsletter. When we do this we will explain what it means, and the rights that are available, to you. You should be aware that we may ask for your ethical consent to maintain confidentiality for other things such as taking part in surveys or drug trials.

Where do we get your personal information from?

Information is collected whenever someone registers with a GP, or receives care in a hospital, clinic, other health or social care setting or from voluntary sector agencies. In Scotland, parts of this information, sometimes including personal health information are extracted from individual records and sent to ISD.
HPS receives information about infectious disease and environmental hazards to health from NHS staff, NHS Board Public Health Departments, hospital laboratories and Local Authority Environmental Health Departments etc.

Both ISD and HPS work with staff in organisations such as NHS Boards, GPs, hospitals, Local Authorities and voluntary groups to share information securely and legally.

**How long can we keep your personal information?**

We keep personal information as set out in the Scottish Government Records Management: NHS Code of Practice (Scotland) Version 2.1 January 2012. The NHS Code of Practice sets out minimum retention periods for information, including personal information, held in different types of records including personal health records and administrative records. As directed by the Scottish Government in the Records Management Code of Practice, we maintain a retention schedule detailing the minimum retention period for the information and procedures for the safe disposal of personal information. This schedule can be found at https://nhsnss.org/how-nss-works/document-storage-and-retention/

We often retain health information indefinitely in accordance with our purposes of public interest in the area of public health such as epidemiology (monitoring trends in patterns of disease), to monitor the effectiveness of health interventions such as vaccination programmes, and to identify new and emerging infectious or environmental threats to the health of the population.

**How do we keep your personal information secure?**

We take care to ensure your personal information is stored securely and is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. The following security measures are in place to protect personal information:

- All staff undertake compulsory training in Data Protection and IT Security
- NSS has to comply with the NHS Scotland Information Security Policy set out by Scottish Government
- We have senior staff who have the role of 'Caldicott Guardian' for our organisation. The job of a Caldicott Guardian is to ensure that we take all appropriate steps to protect the confidentiality of personal health information. As well as the Caldicott Guardian, we have a team of specialist staff to advise and ensure that information is handled properly and in accordance with the law
- Access to personal health information can only be given with special authorisation, and use of that information is closely monitored.
- We have policy and procedures on the safe handling of personal information, from when we receive it to when it is securely removed or destroyed when no longer needed
There are strict rules that govern how information should be managed eg to make sure names, addresses and any other information that might identify an individual are removed wherever possible before analysis.

When we publish reports from the information we hold, we ensure no-one can be identified from the information we publish.

When we work with personal information we make sure we only use the minimum information required for us to undertake our role.

**When do we use your personal health information?**

We do most of our analysis with information that does not directly identify you, ie it does not hold your name, address and other immediately identifying information.

There are times when we have to use information that could identify you. Here are some examples.

- Reviewing samples of health records to make sure the information held is accurate.
- Linking information together so that the outcomes of a particular illness or disease can be monitored.
- Providing information to an NHS Board about their patients or residents who have had treatment in other locations.
- Monitoring health hazards for the people of Scotland by gathering surveillance information provided by laboratories, hospitals, GPs, NHS Boards, Local Authorities or voluntary sector agencies.
- Managing exposure to health hazards and large outbreaks of infectious illness that may affect many people across Scotland, such as large flu outbreaks.

When another organisation requests information, it will only be released after removing as much information that could identify you as possible. We only release information that could identify you directly when required or permitted by law or when it can be shown that you gave your permission, for example, where you have signed a consent form to allow its use for clinical trials.

We take advice on sharing information from the Public Benefit and Privacy Panel for Health and Social Care which includes patients and doctors. This group help to make sure we protect personal information and meet our legal obligations of data protection and confidentiality.

**What are your rights?**

Data protection law governs the use of personal information and gives you the right:

- to know how we **use** your personal health information
- to obtain **confirmation** that your personal information is being held or used by us; to **access** your personal information and additional information about how we use your
personal information. If you would like to request access to personal information we hold about you, you can do this by getting in touch with the NHS NSS Data Protection Officer at the address given below.

- to advise us of any inaccuracies in the personal health information we hold about you and the opportunity to **rectify** mistakes. If the personal information we hold about you is inaccurate or incomplete you have the right to have this corrected.

- to **object** to the processing and also request that further processing of your personal information is restricted, although there are some circumstances in which we would be unable to agree to this request. If you would like to object to, or request restriction of, our use of personal information about you, you can do this by getting in touch with the NHS NSS Data Protection Officer at the address given below.

- to object to **automated decision making including profiling**. In HPS and ISD we carry out profiling in the course of our statistical work to improve health and social care. Automated decisions are not taken based on this profiling. Some examples of this are:
  
  - analysing and predicting demand for Accident & Emergency Department services to enable NHS Boards to plan their workforce numbers to respond to the demand.
  
  - analysing patient data and reporting on progress towards the various national waiting times targets in order to monitor performance of NHS Boards.
  
  - producing clinical profiles on medical and surgical activity and outcomes in Scotland which are made available to the appropriate clinical staff to stimulate reflective clinical practice and facilitate improvements in the care of patients.
  
  - reporting on incidents of heart attacks, including age profile of patients, discharge rates and survival rates. This can provide evidence of progress against the priority areas in the national heart disease improvement plan.
  
  - generating risk scores for individual people, based on linked health and care data, that may be used to inform ongoing individual care planning.

- to **other rights** under current data protection law however these rights only apply in certain circumstances. Further information on your other rights are detailed within the NHS NSS Data Protection Notice which can be found at this link - [https://nhsnss.org/how-nss-works/data-protection/](https://nhsnss.org/how-nss-works/data-protection/)

- to **complain** to NHS NSS who employ a Data Protection Officer to check that we handle personal information in a way that meets data protection law. If you are unhappy with the way in which we use your personal information please tell our Data Protection Officer using the contact details below:

  Data Protection Officer  
  NHS National Services Scotland  
  Gyle Square  
  1 South Gyle Crescent  
  Edinburgh
to complain to the Information Commissioner’s Office about how we use your personal information to the Information Commissioner’s Office. Details about this are on their website at www.ico.org.uk or by calling them on 0303 123 1113 (local rate call).

Translation

If you require this information in another format or a community language please contact

Email: NSS.EqualityDiversity@nhs.net
Tel: 0131 275 7457
Textrelay 01800 275 7457
https://contactscotland-bsl.org/reg/

For more information

The people responsible for overseeing our use of personal information in Health Protection Scotland and the Information Services Division are the PHI Caldicott Guardian and the PHI Information Governance team at NHS National Services Scotland, Gyle Square 1 South Gyle Crescent, Edinburgh, EH12 9EB

Email: NSS.PHIinfogovernance@nhs.net
Switchboard: 0131 275 6000

Further general information is available at:

- www.hps.scot.nhs.uk
- www.isdscotland.org