



# DATA PROTECTION POLICY

Unique ID: NHSL.

Category/Level/Type:

Status: Final

Date of Authorisation: April 2018

Date added to Intranet:

Key Words: Information Governance Policy

Author (s): Information Governance Working Group

Version: 3.1 January 2018

Authorised by: Information Governance Sub Committee

Review Date: January 2021

Comments: TECHNICAL UPDATE

## 1.0 Introduction

This is a statement of the data protection policy adopted by NHS Lothian. NHS Lothian needs to process a variety of personal data in order to carry out its statutory functions. NHS Lothian processes patient and carer data for a variety of healthcare related purposes including provision of care, administration of healthcare services, teaching and research. Personal data is also held on current, past and prospective employees, suppliers, and others with whom it communicates. All such personal data will be dealt with properly and securely no matter how it is collected, recorded and used – whether on paper, in a computer system or recorded on other media.

NHS Lothian will observe the requirements of the Data Protection Legislation when processing personal data. NHS Lothian will ensure that the organisation continues to treat personal data with due care and diligence.

## 2. Implementation

### 2.1 General

#### NHS Lothian will:

- Observe, fully the conditions regarding the fair collection and use of information.
- Meet its legal obligations to specify the purposes for which information is used.
- Collect and process appropriate information, only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements.
- Ensure the quality of information used.
- Apply checks to determine the length of time information is held.
- Ensure that the rights of people about whom personal data is held can be fully exercised under the Act. These include: the right to be informed that processing is being undertaken, the right of access to one's personal information, the right to prevent processing in certain circumstances and the right to correct, rectify, block or erase information which is regarded as wrong information.
- Ensure that personal data is not transferred to non-EEA countries without suitable safeguards.
- Take appropriate technical and organisational security measures to safeguard personal data.
- Take appropriate measures to ensure Data Protection *Impact Assessments* (DPIAs) are completed prior to purchase of new IT Systems, new data sharing or business process. This will identify the most effective way to comply with data protection obligations and meet individuals' expectations of *privacy*. DPIAs are an integral part of taking a *privacy* by design approach.

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## 2.2 Organisational Issues

- NHS Lothian will ensure that a full, correct and up-to-date notification is lodged in its name with the Information Commissioner.
- NHS Lothian is a Data Controller and delegate day-to-day responsibility for the operational application of Data Protection Legislation to the Director of Public Health and Policy.
- NHS Lothian will observe the Caldicott principles and ensure that there is a nominated Caldicott Guardian in accordance with MEL 1999/19.
- NHS Lothian will appoint a suitably qualified person with specific responsibility for advising on, and monitoring data protection practice in the organisation, the Data Protection Officer.

### NHS Lothian will ensure that:

- Everyone processing personal data understands that they are contractually responsible for following good data protection practice is appropriately trained to do so and provided with appropriate support.
- Anyone wishing to make enquiries about processing personal data knows whom to approach.
- Enquiries regarding processing personal data are promptly and courteously dealt with.
- Methods of processing personal data are clearly defined and reviewed regularly to ensure best practice guidance is followed within the organisation.
- A regular review and audit is made on the ways data are processed.
- When sharing information with Public Authority or voluntary partners, or when required for statutory purposes, this is managed in accordance with the NHS Lothian Information Sharing Protocols.
- Where deemed appropriate by managers, breaches of the Data Protection Legislation and associated policy may result in action being taken through the current Disciplinary Policy.

## 3. Public Records Act 2011

Under the Public Records (Scotland) Act 2011 Scottish public authorities must produce and submit a records management plan setting out proper arrangements for the management of the organisations records to the Keeper of the Records of Scotland for his agreement under Section 1 of the Public Records (Scotland) Act 2011.

NHS Lothian Records Management Plan (RMP) sets out the overarching framework for ensuring that NHS Lothian's records are managed and controlled effectively.

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#### **4. Review**

NHS Lothian Information Governance Working Group will review this policy annually, and any changes to this Policy will be managed in accordance with the NHS Lothian standing instructions governing Policy Review. Any substantial changes to Data Protection Law or Scottish Government guidance will be adopted as issued and will be relayed to the Partnership Forum and the Healthcare Governance Steering Group.

#### **5. Associated policies**

In conjunction with Data Protection Legislation, NHS Lothian will apply the Principles of Caldicott, IT Security, Information Sharing, Confidentiality, Social Media and Records Management as defined in their supporting Policies and Protocols to meet the Information Governance standards as prescribed by National Services Scotland (NSS) and Scottish Government.

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