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Version 6  
Last Review Sept 2013  
Next Review Sept 2016

# THE DATA PROTECTION ACT 1998



# THE DATA PROTECTION ACT 1998

The Data Protection Act 1998 (The Act) was brought into full force on 1<sup>st</sup> March 2000.

This booklet provides you with some important guidelines on the implementation of this Act.

The Act gives legal rights to individuals (data subjects) in respect of personal data held about them by others.

The Trust has a duty to protect its Patients/Staff Information, to look at the way it collects, processes and stores information to make sure that we comply with the law.

There are eight Data Protection Principles which underpin the Act. All Trust employees must familiarise themselves with these and work within their boundaries.

If you have any questions that cannot be answered in this booklet then please contact the Information Governance Team on the following numbers:- 6583 / 6584 / 6645

## TO SUM UP

REMEMBER THAT INFORMATION MUST BE:-

- Held securely and confidentially
- Obtained fairly and efficiently
- Recorded accurately and reliably
- Used effectively and ethically

**Shared appropriately and lawfully**

# PRINCIPLE 8

## INFORMATION SHOULD NOT BE TRANSFERRED OUTSIDE THE EUROPEAN UNION

Personal data shall not be transferred to a country or territory outside the European Union, unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data as we do.

- Ensure consent is obtained
- Ensure adequate protection

If you need further guidance contact Information Governance Team on 01908 826583/ 01908 826584 / 01908 826645 or bleep 1503.

# DEFINITIONS OF THE ACT

- 1. What is meant by Personal Data?**  
Personal Data means data which relates to a living individual who can be identified from that data.
- 2. What manual data is covered by the Act?**  
Data which holds identifiable information however small, and forms part of a relevant filing system.
- 3. What is meant by Processing?**  
Obtaining, recording or holding the information or data, retrieval, consultation and use of.
- 4. What is a Data Subject?**  
A Data subject is an individual who is the subject of personal data.
- 5. What is a Data Controller?**  
A Data controller is a person whom alone or jointly with other persons determines the purposes for which and the manner in which any personal data are, or are to be processed.
- 6. What is a Data Processor?**  
A Data processor, in relation to personal data, means any person, (other than an employee of the data controller) who processes the data on behalf of the data controller.

# DEFINITIONS OF THE ACT CONT

## 7. What is a recipient?

A recipient in relation to personal data means any person to whom the data is disclosed.

## 8. Who is a Third Party?

A third party, in relation to personal data, means any person other than:-

- the data subject
- the data controller or

Any data processor or other person authorised to process data for the data controller or processor.

# PRINCIPLE 7

## SECURITY

We are all responsible for security and confidentiality in the Trust. Make sure you follow Trust policies and procedures. Remember information is processed in many different ways:-

- Telephones (Do you know the caller)
- Fax's minimise identifiable information – follow the fax guidance sheet
- Patients Medical Records – always track and keep secure
- Sticky Labels
- White Boards – keep out of public view if personal information is contained on them.
- Passwords – keep them secret / don't share
- Swipe Cards – do not share or let anyone tailgate.

**REMEMBER IT IS YOUR RESPONSIBILITY TO KEEP THE INFORMATION YOU USE SAFE AND SECURE AT ALL TIMES**

# PRINCIPLE 6

## PROCESSED IN ACCORDANCE WITH INDIVIDUALS RIGHTS

All individuals have rights with regard to their personal data as follows:-

- Access to healthcare/staff records
- To prevent processing likely to cause damage or distress
- To prevent processing for the purposes of direct marketing (an end to Junk mail)
- A right to know if an automated decision has been taken.
- To have their data Rectified, Blocked, Erased or Destroyed
- To request an assessment by the Information Commissioner

# PRINCIPLE 1

## PERSONAL DATA SHALL BE PROCESSED FAIRLY AND LAWFULLY

There should be no surprises, Data Subjects must be informed:

- Why we collect their information
- What we intend to use it for
- Who we may share it with
- How we store it

Information is used in many ways including research, training, continued healthcare, audit purposes etc. Individuals have a right to choose if they wish to be involved in these activities. Document their wishes where necessary.

Be open and honest with Data subjects and keep them informed on a regular basis.

## PRINCIPLE 2

### PERSONAL DATA SHALL BE OBTAINED ONLY FOR ONE OR MORE SPECIFIED AND LAWFUL PURPOSE

Only use personal information for the purposes for which it was collected.

Personal information on our Patient/Staff Administration systems must only be used for their original purposes.

Information must only be accessed on a need to know basis, you have a legitimate reason to do so. It is NOT a database tool to be used by staff for looking up the information of relatives and friends.

Information should only be shared if you are certain it is appropriate to do so. Please refer to Trust policies, procedures and protocols for further guidance.

If you are unsure always check with your line manager or the Information Governance Team.

## PRINCIPLE 5

### NOT KEPT FOR ANY LONGER THAN NECESSARY

Ensure that you:-

- Follow the NHS Retention Code of Practice Parts 1 & 2 and your own departmental guidelines.
- Undertake regular housekeeping
- Dispose of information in line with Trust Policy

Think about:-

- Diaries
- Individual note books
- Memory joggers
- Handover notes
- Theatre lists

### ALWAYS DISPOSE OF INFORMATION CORRECTLY AND SECURELY

# PRINCIPLE 4

## ACCURATE AND UP TO DATE

Information must be kept accurate and up to date. Take care when inputting data think about the steps you can take to make sure it is accurate.

Check:-

- Name
- Address
- Telephone
- Next of kin etc

Each time a patient attends a clinic they should be asked to confirm their details.

**Avoid creating duplicate records, check existing records thoroughly before making new ones.**

# PRINCIPLE 3

## ADEQUATE, RELEVANT AND NOT EXCESSIVE

Only collect and keep information you require. Cut down on excessive record keeping.

Do not hold information which is not relevant for the purpose it was collected for and would not be called upon for use.

Important points to remember are:-

- Stick to facts – avoid personal opinions
- Explain all abbreviations
- Writing should be clear and legible
- Dispose of duplicate information
- Regular housekeeping should be carried out

# Memory Map

