

**Staff Confidentiality Policy and Code of Conduct**

**POLICY STATEMENT:**

This policy is written to set out Trinity Hospice and Palliative Care Services commitments to, and responsibilities for confidentiality, in the context of the organisations Information Governance and Data Protection policy.

All staff need to be aware of their responsibilities for safeguarding confidentiality and preserving information security. All patients information must be treated with complete confidentiality and MUST NOT be divulged to anyone who does not have the right to access. Information refers to ALL information including that held on paper, in manual form and electronically. Access to information on patients is restricted to those who have given permission by the patient, except in specific circumstances laid out in this policy and guidelines.

All staff contracts state that you need to be compliant with confidentiality and data protection. Any non –compliance is viewed as a breach of confidentiality and may result in disciplinary action, including termination of employment.

**RELATED POLICIES AND PROCEDURES:**

A7 Information Governance Policy

A21 Policy for the Disclosure of Patient Information

A24 Management of Patient Records Policy

A26 Research Policy

A36 Email and Internet Policy

A37 Sharing Patient Clinical Data with Other Healthcare Providers

A41 Data Protection Policy

B22 Staff Code of Behaviour and Conduct

Contract of Employment

Guide to Confidentiality in Health and Social Care – Health and Social Care Information Centre (HSCIC) Sept 2013

**RESPONSIBLITY AND ACCOUNTABLITY:**

Policy Formulation and review: Clinical Director/ Medical Director

Approval: CEO and TMTE

Compliance: All staff and volunteers

**Policy Formulated: February 2014**

**Policy reviewed : January 2016**

**Next review due by: January 2018**

**1. PURPOSE**

Trinity Hospice and Palliative Care Services are committed to safeguarding the confidentiality of the individual and the information it holds about them.

This policy has been produced to:

* Inform staff of the need and reasons for keeping all personal and commercially sensitive organisational information confidential .
* Inform staff about what is expected of them.
* Ensure the organisation complies with its duty as an employer and as a provider of health care services that requires handling confidential information in order to deliver that service.

**2. SCOPE**

All staff and volunteers working for Trinity Hospice and Palliative Care Services.

**3. POLICY**

**3.1 Introduction**

All employees working for a healthcare organisation are bound by a legal duty of confidence to protect the personal information that they may come into contact with during the course of their work. This is not just a requirement of their contractual responsibilities but also a requirement within the Data Protection Act 1998 and, in addition, for health and other professional through their own professions’ Code of Conduct.

The Confidentiality NHS Code of Practice further endorses this by providing a guide to required practice for those who work within or under contract to NHS organisations concerning confidentiality and patients’ consent to the use their health records.

All employees of the organisation come into contact with confidential information at some level on a regular basis and as such need to be aware of their personal responsibilities to its use and protection.

Patients expect that information given to them to their doctors, nurses and other members of the health care team will be treated in confidence and not passed to others without their permission. Similar considerations apply to personal information concerning other individuals, such as employees.

Volunteers are also bound by a duty of confidence when volunteering within the organisation. The organisation must ensure that volunteers are not placed in a position or given a task that allows them access to data beyond that which they need to fulfil their role.

**3.2 Legal Framework**

Trinity Hospice and Palliative Care Services are committed to compliance with all relevant UK and European Union legislation and NHS guidance. This includes but is not limited to:

* The NHS Confidentiality Code of Practice
* Data Protection Act 1998
* Common Law Duty of Confidentiality
* Caldicott Principles (see Appendix 1)
* Information Security Management: NHS Code of Practice
* Freedom of Information Act 2000
* The Copyright, Design and Patents Act (1988)
* The Computer Misuse Act ( 1990)
* The Health and Safety at Work Act (1974)
* Human Rights Act (1998)
* Regulation of Investigatory Powers Act 2000
* National Health Service Act 2006

**3.3 Principles of Confidentiality**

Confidential information is information entrusted by an individual in confidence where there is a general obligation not to disclose that information without consent. Confidential information may include personal information such as name, age, address and personal circumstances, as well as sensitive personal information regarding race, health, sexuality, etc.

Patients have a right to expect that a doctor, nurse or other members of the Health/Social Care Team or the organisations staff in general will not disclose any personal information learnt during the course of their duties, unless permission is given. Without assurance about confidentially patients may be reluctant to give information that may be required in order to provide care.

Similar considerations apply to personal information concerning individuals, such as staff, donors and volunteers.

Confidential information may be known, or stored on any medium. Photographs, videos etc. are subject to the same requirements as information stored in health records, on a computer, or given verbally. Information that identifies individuals personally must be assumed to be confidential, and should not be used unless absolutely necessary. Whenever possible, anonymised data (from which personal details have been removed and which therefore cannot identify the individual) is to be used instead. Note however that even anonymised information can only be used for justified purposes.

**3.4. Awareness and Compliance**

Everyone at Trinity Hospice and Palliative Care Services must be aware of the importance of confidentiality. All employees must be aware of their responsibilities for safeguarding patient confidentiality and keeping information secure. It must be remembered that no individual within the organisation has an automatic right of access to personal information held by Trinity.

Employees must comply with requirements of the Confidentiality NHS Code of Practice, the Data Protection Act 1998 and the Freedom of Information Act 2000. Breaches of confidentiality are a serious matter and non-compliance with this Policy may result in disciplinary action being taken.

On joining the organisation new employees will be asked to sign up to the Data Protection and Confidentiality Code (see Appendix 2) (Form and code will be included in the ‘New Starter ‘information)

All volunteers are asked to sign that they have read and understood the volunteer handbook when they start with the organisation. In addition all volunteers are reminded in their placement about the importance of confidentiality. From time to time updates around confidentiality are circulated via the volunteer consultative committee.

**3.5 Responsibilities**

No employee shall knowingly misuse any information or allow others to do so. Any breaches/potential breaches of confidence are to be reported in accordance with the Near Misses, Incident and Serious Untoward Incident Reporting Policy and procedure.

It is important that individual responsibilities towards the maintenance of confidentiality are known and understood:

* The Caldicott Guardian is responsible for overseeing and advising on issues of patient confidentiality for Trinity Hospice and Palliative Care Services.
* Managers are responsible for ensuring that all staff , particularly new staff, temporary staff, contractors and volunteers, know what is expected of them with respect to confidentiality and protecting information within individual areas e.g. departments.

Individual employees are:

* Responsible for maintaining confidentiality. This duty of confidentiality is written into employees contracts. Breach of confidentiality of information gained, either directly or indirectly in the course of duty will be considered a disciplinary offence that could result in dismissal.
* Authorised only to have access to personal information they need to know in order for them to perform their duties. Gaining access or attempting to gain access to information for any other purpose will be seen as a breach of confidentiality as passing information on to someone who is not authorised to receive it.
* Responsible for safeguarding the confidentiality of all personal and organisation information to which they have access, this includes its safe transfer and storage.
* Personally responsible for any decision to pass on information to another person/third party.
* Responsible for adhering to the Confidentiality NHS Code of Conduct, Caldicott Principles, the Data Protection Act 1998 and the Freedom of Information Act 2000.
* Also expected to treat any non-person identifiable information that could be considered sensitive to the business of the Trust with the same degree of care as would be afforded to person identifiable information.
* Guidance and support relating to the maintenance of confidentiality and security of information is available in the form of the Confidentiality Code of Conduct Guidance and from the Caldicott Guardian and Clinical Director.
* The finance and fundraising databases contain confidential information relating to individuals, the Hospice and the Trading Company. Information held within these databases is to be accessed and shared according to individual’s roles and should only be accessed and shared on a need to know basis in accordance with the Data Protection Act 1998 and the Freedom of Information Act 2000.

**3.6 Acting on the Duty of Confidentiality**.

Any personal information, non- clinical or clinical, must be treated as confidential.

No personal information, given or received in confidence, may be passed to another person or organisation without the consent of the provider of the information. This is usually the patient but sometimes another person may be the source (e.g. relative or carer).

No personal information, given or received in confidence for one purpose, may be used for a different purpose without consent of the provider of the information this is the same with donors.

Whilst patients usually understand and accept that information may be shared within the healthcare team in order to provide care, it is still necessary to check that the patient understands what will be disclosed and who may be contributing to their care.

It is also important to respect the wishes of any patients who object to their information being shared, except where this would put others at risk of death or serious harm.

The overriding principle is that patients, donors, staff or volunteers should not be shocked to find out how their information has or is being used or shared, rather that they should be effectively informed to allow them to exercise their rights in relation to their data.

The duty of confidentiality owed to a deceased patient is to be viewed as being consistent with the rights of living individuals. This also applies to the duty of confidentiality owed to a deceased donor whose details are held on the fundraising database.

**3.7 Training and Awareness**

Training and awareness of the importance of the maintenance of confidentiality and information security will be an ongoing process throughout an individual’s employment with Trinity Hospice and Palliative care Services and will form part of the mandatory training programme.

Managers will be responsible for ensuring that employees are made aware of any specific departmental requirements/procedures.

**3.8. Monitoring**

The Caldicott Guardian and Clinical Director will provide regular reports to the Clinical Governance Committee:

The number of reported ‘information ‘untoward incidents including:

* Confidentiality
* Security
* Misuse of data
* Staff training undertaken

**Appendix 1**

Caldicott Principles

Justify the purpose(s)

**Question why information is required and what specific information is needed, to enable them to perform their task.**

Don’t use patient/client –identifiable information unless it is absolutely necessary

**Consider why identifiable information about a patient/client is being requested, whether it could be anonymised in some way, and if not what the benefits are, do they outweigh the patient/client‘s right to confidentiality**.

Use the minimum necessary patient/client identifiable information

**Where supplying patient/client-identifiable information is vital, then we need to consider the absolute minimum required, for this we have to consider what is needed for and what they have a right to see**.

Access to patient/client – identifiable information should be on a strict need –to- know basis

**Only those who need to view patient/client-identifiable data should be allowed access and even then only to that which they need to know.**

Everyone with access to patient/client-identifiable information should be aware of his or her responsibilities.

**Each member of staff concerned should be aware of the implications that a breach of confidentiality has on the patient/client or member of staff and what they should be doing to prevent or reduce the risk of any such breaches.**

Understand and comply with the law

**All uses of patient /client –identifiable data should be lawful. Someone within your organisation must be responsible for ensuring that the organisation complies with legal requirements.**



**Appendix 2 DATA PROTECTION & CONFIDENTIALITY CODE OF CONDUCT**

I understand that as an employee of Trinity Hospice and Palliative Care Services I am bound by a legal duty of confidence to protect any personal information that I come into contact with during the course of my work. I also understand that I am also expected to treat any non-person identifiable information that could be considered sensitive to the business of the organisation with the same degree of care.

I will not at any time during my employment or afterwards disclose to any person/organisation:

* Personal Information regarding patients (including prospective patients), staff (in connection with their employment).
* Corporate information relating to the business, dealings, accounts, finances, trading, software, know-how, affairs of the organisation.

Unless I have the authority to so and only within the confines of the Law and the procedures and guidance within the organisation. This includes but is not limited to:

* The NHS Confidentiality Code of Practice
* Data Protection Act 1998
* Common Law Duty of Confidentiality
* Caldicott Principles (see Appendix 1)
* Information Security Management: NHS Code of Practice
* Freedom of Information Act 2000
* The Copyright, Design and Patents Act (1988)
* The Computer Misuse Act ( 1990)
* The Health and Safety at Work Act (1974)
* Human Rights Act (1998)
* Regulation of Investigatory Powers Act 2000
* National Health Service Act 2006
* Staff Confidentiality Policy and Code of Conduct A08

All notes, memoranda, records and other documents created/used by me during the course of my duties for the organisation shall remain the property of Trinity and shall be handed over by me to the organisation from time to time on demand and, in any event, upon termination of my employment.

I understand that any breach of this Code of Conduct may constitute a disciplinary offence that could result in disciplinary action being taken. The outcome of such action could be regarded as gross misconduct and lead to dismissal. Any breach of this Code of Conduct after my employment has ended may result in legal action being taken.

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| I understand my role and responsibilities in relation to the protection of both manual and automated data.  I understand my responsibilities in relation to data confidentiality  I have read the Confidentiality Code of Conduct Policy and Guidance.  **Print Name: Sign name: Date:** |

Line Manager – A verbal explanation of the above statement has been provided to the above member of staff.

**Signature of Line Manager** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_



**EQUALITY AND DIVERSITY IMPACT ASSESSMENT TEMPLATE**

**POLICY STATEMENT:**

Trinity Hospice is committed to creating a culture in which diversity and equality of opportunity are promoted actively and in which unlawful discrimination is not tolerated.

Trinity Hospice believes in the principles of social justice, acknowledges that discrimination affects people in complex ways and is committed to challenge all forms of inequality. To this end, The Hospice will aim to ensure that:

* individuals are treated fairly, with dignity and respect regardless of their age, marital status, disability, race, faith, gender, language, social/ economical background, sexual orientation or any other inappropriate distinction;
* it affords all individuals, volunteers and employees the opportunity to fulfil their potential;
* it promotes an inclusive and supportive environment for staff, volunteers and visitors;
* it recognises the varied contributions to the achievement of the Hospice’s, mission made by individuals from diverse backgrounds and with a wide range of experiences.

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| Title of policy/ proposal/ activity: | Staff Confidentiality Policy and Code of Conduct |
| Equality Impact Assessment Group (names): | Julie Huttley |
| Date: | 4th January 2016 |

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| --- | --- |
| 1. Briefly describe the aims, objectives and purpose of the proposal | Trinity Hospice commitments and responsibilities around confidentiality |
| 2. Are there any associated objectives of the proposal, please explain | No |
| 3. Who is intended to benefit from the proposal and in what way? | Ensuring that all patient and donor information is treated with complete confidentiality. |
| 4. What outcomes are wanted from this proposal? | Clear concise guidelines |
| 5. What factors/forces could contribute/detract from the outcomes? | Unsatisfactory management of patient and donners information |
| 6. Who are the main stakeholders in relation to the proposal? | Patients, families, customers, donors |
| 7. Who implements the proposal and who is responsible? | Clinical Director / Medical Director |
| 8. Is it likely that that the proposal **could** have a positive or negative impact on minority **ethnic** groups.  What existing evidence (either presumed or otherwise) do you have for this? | No |
| 9. Is it likely that that the proposal **could** have a positive or negative impact due to **gender.** If so, please outline what the impact might be.  What existing evidence (either presumed or otherwise) do you have for this? 7. Who implements the proposal and who is responsible for the propos | No |
| 10. Is it likely that that the proposal **could** have a positive or negative impact due to **disability.** If so, please outline what the impact might be.  What existing evidence (either presumed or otherwise) do you have for this? | No |
| 11. Is it likely that that the proposal **could** have a positive or negative impact on people due to **sexual orientation.** If so, please outline what the impact might be.  What existing evidence (either presumed or otherwise) do you have for this? | No |
| 12. Is it likely that that the proposal **could** have a positive or negative impact on people due to their **age.** If so, please outline what the impact might be.  What existing evidence (either presumed or otherwise) do you have for this? | No |
| 13. Is it likely that that the proposal **could** have a positive or negative impact on people due to their **religious belief.** If so, please outline what the impact might be.  What existing evidence (either presumed or otherwise) do you have for this? | No |
| 14. Is it likely that that the proposal **could** have a positive or negative impact on people with **dependants/caring responsibilities?** If so, please outline what the impact might be.  What existing evidence (either presumed or otherwise) do you have for this? | No |
| 15. Is it likely that that the proposal **could** have a positive or negative impact on people due to them being **transgender or transsexual.** If so, please outline what the impact might be.  What existing evidence (either presumed or otherwise) do you have for this? | No |
| 16. Can any adverse impact be justified on the grounds of promoting equality of opportunity for a particular group? (For example, the proposal may be deliberately designed to promote equality for disabled people but may run the risk of this being at the expense of non-disabled people). | No |
| 17. Is a full Equality Impact Assessment necessary? | No |
| 18. If Yes date on which full impact assessment is to be completed by |  |
| Signed on behalf of the organisation. | Julie Huttley |
| Agreed review date | January 2018 |