# Disclosure of Information to the Police Procedure

## Version: 3

<table>
<thead>
<tr>
<th><strong>Summary:</strong></th>
<th>Procedure and guidance for staff relating to the disclosure of patient/staff information to Police officers.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Keywords (minimum of 5):</strong></td>
<td>Police; Information sharing; consent; need to know; best interest; capacity; public interest</td>
</tr>
<tr>
<td><strong>Target Audience:</strong></td>
<td>All staff employed by Southern Health NHS Foundation Trust, Non-Executive Directors and Contractors.</td>
</tr>
<tr>
<td><strong>Next Review Date:</strong></td>
<td>July 2022 3 years, or sooner if required</td>
</tr>
<tr>
<td><strong>Approved &amp; Ratified by:</strong></td>
<td>Information Governance Group</td>
</tr>
<tr>
<td><strong>Date issued:</strong></td>
<td>July 2019</td>
</tr>
<tr>
<td><strong>Author:</strong></td>
<td>Lesley Barrington Head of Information Assurance</td>
</tr>
<tr>
<td><strong>Sponsor:</strong></td>
<td>Karl Marlowe Caldicott Guardian</td>
</tr>
</tbody>
</table>
Version Control

Change Record

<table>
<thead>
<tr>
<th>Date</th>
<th>Author</th>
<th>Version</th>
<th>Page</th>
<th>Reason for Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>19/05/2016</td>
<td>Lesley Barrington</td>
<td>2</td>
<td>All</td>
<td>Updated</td>
</tr>
<tr>
<td>29/04/2019</td>
<td>Donna Woolley</td>
<td>2</td>
<td>4</td>
<td>Legacy name change: generic email from HP-TR. to SHFT</td>
</tr>
<tr>
<td>30/05/2019</td>
<td>Lesley Barrington</td>
<td>3</td>
<td>All</td>
<td>Update: References to GDPR/DPA 2018; updated Hampshire Constabulary DP2 form; References to Privacy Notices.</td>
</tr>
</tbody>
</table>

Reviewers/contributors

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Version Reviewed &amp; Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lesley Barrington</td>
<td>Head of Information Assurance</td>
<td>28/03/2013</td>
</tr>
<tr>
<td>IGG Membership</td>
<td></td>
<td>August 2013</td>
</tr>
<tr>
<td>Alida Towns</td>
<td>Business Manager AMH</td>
<td>August 2013</td>
</tr>
<tr>
<td>Jennifer Dolman</td>
<td>Clinical Director – LD</td>
<td>August 2013</td>
</tr>
<tr>
<td>Donna Woolley</td>
<td>Information Governance Facilitator</td>
<td>August 2013</td>
</tr>
<tr>
<td>Divisional/Clinical Directors</td>
<td></td>
<td>October 2013</td>
</tr>
<tr>
<td>IGG Membership</td>
<td></td>
<td>V3 DRAFT May 2019</td>
</tr>
<tr>
<td>Louise Jones</td>
<td>Snr HR Manager</td>
<td>July 2019</td>
</tr>
</tbody>
</table>
# CONTENTS

| 1.       | Purpose/introduction       | 4 |
| 2.       | General issues             | 4 |
| 3.       | Procedure to be followed:  |   |
| 3.1:    | Seek assistance            | 4 |
| 3.2:    | Validate the request       | 4 |
| 3.3:    | Obtain consent             | 5 |
| 3.4:    | Disclosure without consent | 5 |
| 3.5:    | Circumstances where ...    | 5 |
| 3.6:    | Release of information to  | 6 |
|         | the Police in author. Police |   |
| 3.7:    | Where Trust staff approach | 7 |

**Appendices**

Appendix 1: Decision tree 8
DISCLOSURE OF INFORMATION TO THE POLICE

1. **Purpose / introduction**

The purpose of this procedure and guidance is to help staff in making a decision as to whether to share patient or staff information with the Police, and if so what information to share. It is the policy of Southern Health NHS Foundation Trust (the Trust) to share legitimate information with the Police in a justifiable way which upholds the individual's right to confidentiality and releases sufficient, appropriate information to assist the Police with their enquiries.

It is a fundamental principle of medical ethics that all that passes between a patient and a doctor/practitioner in the course of a professional relationship is confidential. Patients have the right to expect that information gained in the course of their treatment and care is given to no-one except those involved in their direct care and, that even then, only pertinent information is communicated.

For further information relating to processing and sharing information relating to patients – see the Trust Privacy Notice:

https://www.southernhealth.nhs.uk/patients-and-carers/your-information-your-rights/

And for staff:

http://intranet.southernhealth.nhs.uk/all-about-me/hr/hr-contact-centre/

2. **General issues**

If staff are in doubt, they should seek advice in the first instance from their Team/Line Manager. If further advice is required – please contact the Information Assurance Team on 01962 763931 / shft.informationassuranceteam@nhs.net.

In Child Protection matters, Locality Safeguarding Children Boards (LCSBs), Child Protection Procedures and Hospital Child Protection Policy should also be followed. Advice should be sought from the Safeguarding Team.

Where issues relate to vulnerable adults, Hampshire’s Safeguarding Adults Policy should also be followed (e.g. a patient has made a threat against a third person).

**Only give the minimum, or relevant, information, to satisfy the request:** there is a difference between disclosing general information about an individual, and releasing copies of a staff personal record or patient's medical record. The golden rule is for both the Trust and the Police to be able to justify the release of information being in the public interest.

In all cases, the local Access to Records Lead must be informed, and the request to disclose information must be recorded on the SAR log, with reasons for action taken, e.g. why information was given or withheld.

3. **Procedure to be followed – (see Appendix 1 for decision flow diagram)**

3.1 **Seek assistance:** when a member of staff receives a request for patient/staff information from the Police, they should contact their Team Manager, and if out of hours, the Senior Clinician or Manager on Call.
3.2 Validate the request:

A Police officer, wishing to make enquiries into the case of a serious offence, should ask to see the Clinician or Manager of the department responsible for the care of the patient (who is suspected of involvement in the offences under investigation, either as a victim or perpetrator). The genuine identity of the person representing themselves as a Police officer must be established (e.g. warrant card examined).

Requests from the Police to access clinical records, must always be made in writing. Such requests can be made under Schedule 2 Part 1 Paragraph 2 of the Data Protection Act 2018 and GDPR Article 6(1)(d) – see form below.

DPA Form 2.pdf

Where Police attend Trust premises in response to an incident involving a patient, the Police officer will normally ask the medical staff to determine whether the person is fit to be interviewed. It is generally considered appropriate, ideally with the patient’s consent. The Police officer will often ask staff whether the patient knew what s/he was doing and whether s/he is responsible for his/her actions. In these cases the doctor should not give information without the express consent of the patient.

3.3 Obtain Consent:

Where possible, practical, and safe to do so, the patient’s consent to release information should be obtained by the Trust. However, there may be times when this is not possible due to the patient’s condition, for example the patient does not have capacity to consent and will not gain capacity to consent in a timely manner; is unconscious or has absconded, or has been discharged from the care of the Trust, or where gaining consent is likely to result in further incidents or risk. The duty of care also requires the Trust to consider whether the patient is capable of making an informed decision.

3.4 Disclosure of information to the Police without the patient’s Consent:

The consultant or lead healthcare professional involved with the patient, or their deputy, has discretion, within the law, over what information may be given to the Police (whether in writing or following attendance by a Police officer to his or her Department). Where Police attend outpatient clinics, there may not always be a designated consultant with responsibility; in these cases the senior clinician will need to make the decision.

3.5 Circumstances where information may be released (patient/staff):

a. If the public interest and safety out-weighs the duty of confidentiality; this is likely to involve crimes of a very serious nature or where a serious offence is being investigated, such as rape, murder, kidnapping, causing death by dangerous driving or fire-arm related crimes. [Refer to section 5.4 of the Information Sharing Policy]

b. if information relating to terrorism has been acquired;

c. if the provisions of Section 172 of the Road Traffic Act 1988 apply (name and address). Where the investigation concerns offences involving motor vehicles staff can provide the Police with patient/occupant/driver demographic details. Under Section 168 (2) (b) of the 1972 Road Traffic Act any person (e.g. Trust
staff) must give information that may lead to the identification of the driver of a vehicle, where the driver is alleged to have committed an offence under the Act. It should be noted that the information is restricted only to enable an identification of the driver and no other information should be given. (Hunter-v-Mann 1974). The Police Officer should not be permitted to examine any medical or nursing notes or any record books or administration books kept in the hospital. If unsure seek advice.

d. if the release is for the prevention and detection of crime and is a life or death matter and the decision has been made that its release is 'in the public interest and safety' then the appropriate information must be released and the Trust’s Records Manager informed. The Police must provide a completed and signed DP2 form (see 3.2).

e. where public moral duty to furnish certain information about a patient/staff to the Police over-rides the duty of confidentiality. i.e. there is sufficient public interest justification to release it.

f. where it is evident to staff that they, colleagues or members of the public may be at risk and that involving the Police or other agencies is appropriate. However, the Caldicott Guardian, Data Protection Officer or senior managers agreement should always be obtained whenever possible. Examples include detained patients who are absent without leave or patients who are registered as missing persons.

g. if a Court Order has been obtained.

In all cases, the authority of the Consultant or Senior Clinician in charge of the patient (or deputy) must be obtained.

3.6 **Release of information to the Police in authorised Police break-ins or missing person cases**

The Trust should always seek to determine why the Police need the information.

There are certain emergency situations where the Police will ask, by phone, if an individual is an in-patient for example. In these cases, staff should ask for the name and rank of the officer and call the station back using the telephone number obtained from switchboard. Information may only be disclosed if it can be justified to be in the public interest, e.g. risk of serious harm or death.

There are occasions when the Police contact the hospital seeking information about missing people. Such enquiries should not be made by telephone but by a visit to the hospital or by a written request. If it is an emergency, then the above paragraph applies.

There may be situations where Police enquire as to whether someone about whom they have received reports and/or are about to engage with is known to the Trust. In these cases, the same tests apply as above with the over-riding test being consideration of the patient’s best interests. The following are given by way of examples where release of information may be appropriate:

- Police have received a report about a person acting in a bizarre way. Police attend and believe the behaviour may be the result of a mental illness and wish to test if that person is known to us so that they can ensure appropriate treatment;

- in missing person cases, where the Trust knows the patient is in hospital, the Trust should ask the patient for their consent to pass the information on. If the patient
does not want the information passed on (for example to relatives) then the Police should be told this. A record of the request and the outcome must be placed in the health record;

- where the patient is not in a position to give/withhold informed consent and it is seen to be in the patient’s best interest to give information (e.g. the patient does not have the capacity to consent or is unconscious in intensive care unit) then information should be released based on a professional judgement/justification. Again, a record must be made in the health records. In such circumstances appropriate authorisation should be sought from a Senior Clinician, Senior Manager or Caldicott Guardian whenever possible.

3.7 Where Trust staff approach the Police

In certain areas of the Trust's work it is recognised that staff are at risk of crime from patients, relatives and the public. They may also come across evidence of serious crime. All staff have the same rights and duties as any other citizen, and the Trust also has a duty not to infringe or diminish those rights or duties. The Trust recognises that in certain circumstances, involving the Police may be the appropriate way of dealing with a situation or its consequences.

In some circumstances staff will come across evidence of serious crime, for example; the possession of firearms or other weapons or drugs. Where this occurs on Trust property (e.g. as part of admission procedures) the Police should be informed. Please refer to the Trust’s ‘Search of Patients and their Property Policy’ for full guidance. All such incidents (whether on Trust property or not) must be reported.

In addition to the above, Trust staff need to bear in mind the nature and circumstances of the patient’s injuries and the possibility that they may indicate involvement in serious crime, for example, terrorism, violent battery, murder or the production of explosives. In view of anti-terrorist legislation measures, these instances must be notified to the Police immediately after seeking advice from the appropriate manager.
Appendix 1:

What is the nature of the police request for information?

- Info to prevent or detect a crime or serious arrestable office *
- Access to clinical records – without consent of patient
- Life or death emergency or terrorism

Patient victim of crime

- Missing person
- For authorised break-in in emergency

Road Traffic Accident – statutory right to name and address – NOT clinical records

Must have a completed/signed DP2 form

Inform Team Manager; IG Managers; Risk Team

Get the patient’s/relatives consent

- In-patient?
  - Yes
    - In-patient?
      - Yes
        - Consent given
          - Release as justifiable and proportionate
        - Unable to give consent
          - Consent withheld
          - Release if in patient’s best interest
      - No
        - Consent given
          - Release as justifiable and proportionate
        - Unable to give consent
          - Consent withheld
          - Consent given
          - Release if in patient’s best interest

Ask for police switchboard number – must be used when replying

Inform police – relatives need not to be told

Release basic demographics only

Record decision and disclosure in clinical record

* In an emergency situation, release only what is necessary, relevant, and justifiable in agreement with Team Manager. Contact the Information Assurance Team / Head of Legal Services as soon as possible.