

Disclosure of Information to the Police Policy

Policy Domain	IMG
Policy ID	IMG 031
Version Number	5
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Job Title	Information Governance Lead
First Release Date	19/05/2016
Ratification Date	20/08/2021
Ratified By	IT Steering Group
Implemented By	IT Steering Group
Audit and Review By	IT Steering Group
Review Frequency	Triennially
Last Review Date	02/09/2024
Next Review Date	01/08/2027

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1 STATEMENT OF PURPOSE

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 Healthshare 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.

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 Governance Team by email ig@healthshare.org.uk.

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 Healthshare and the Police to be able to justify the release of information being in the public interest.

In all cases, the Information Governance Lead must be informed, and the request to disclose information must be recorded on the Clinical Record, with reasons for action taken, e.g., why information was given or withheld.

3 PROCEDURE TO BE FOLLOWED

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 Director 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).

Where Police attend Healthshare 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 they were doing and whether they were responsible for their 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 Healthshare. 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 Healthshare, or where gaining consent is likely to result in further incidents or risk. The duty of care also requires Healthshare 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)

- 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 6.3 of the Data Sharing Policy].
- If information relating to terrorism has been acquired.
- 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., Healthshare 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.
- 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 Healthshare's IG Lead informed. The Police must provide a completed and signed DP2 form.
- Where public moral duty to furnish certain information about a patient/staff to the Police overrides the duty of confidentiality. i.e., there is sufficient public interest justification to release it.
- 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 directors' agreement should always be obtained whenever possible.
- 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

Healthshare must 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. 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 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 Healthshare. 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.

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) 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 Director or Caldicott Guardian whenever possible.

3.7 Where Healthshare staff approach the Police

In certain areas of Healthshare'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 Healthshare also has a duty not to infringe or diminish those rights or duties. Healthshare 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 Healthshare property, the Police should be informed. All such incidents (whether on Healthshare property or not) must be reported.

In addition to the above, Healthshare 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.

4 MONITORING AND AUDIT

Monitoring/audit arrangements	Methodology	Reporting		
		Source	Committee	Frequency
That due process is followed in line with this Policy	Internal Review	IG Lead	IT Steering Group	3 yearly

5 EQUALITY IMPACT STATEMENT

During the development of this policy the Company has considered the needs of each protected characteristic as outlined in the Equality Act (2010) with the aim of minimising and if possible, remove any disproportionate impact on employees for each of the protected characteristics, age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation.

If staff become aware of any clinical exclusions that impact on the delivery of care an incident form would need to be completed and an appropriate action plan put in place

5.1 Equality Impact Assessment

The Company aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. The Equality Impact Assessment tool assesses the impact of this policy.

		Yes/No	Comments
1.	Does the document/project affect any group less or more favourably than another on the basis of:		
	• Disability	No	
	• Sex	No	
	• Race	No	
	• Age	No	
	• Gender Reassignment (including transgender)	No	
	• Sexual orientation	No	
	• Pregnancy & Maternity	No	
	• Other identified groups	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are there exceptions valid, legal and/or justifiable?	No	
4.	Is the impact of the document/project likely to be negative?	No	
5.	If so can the impact be avoided?	NA	
6.	What alternative is there to achieving the document/project without impact?	NA	
4.	Can we reduce the impact by taking different action?	NA	

Completed by:

Name Greg Hart	Position IG Lead	Date Completed: 05/08/2021
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6 REFERENCES

REFERENCES	General Data Protection Regulation The Data Protection Act 2018 Mental Health Act 1983 (As amended) The Human Rights Act 1998 The protection of Freedoms Act 2012 Caldicott Report
RELATED POLICIES	Data Sharing Policy