

**Privacy Notice – Occupational Health Records**

1. **What is a privacy notice?**

A Privacy Notice is a statement by the Trust to staff that describes how we collect, use, retain and disclose personal information which we hold. It is sometimes also referred to as a Privacy Statement, Fair Processing Statement or Privacy Policy.

This Privacy Notice includes applicants, employees (and former employees), workers (including agency, casual and contracted staff), volunteers, trainees, those carrying out work experience and external clients to which the Workplace Health and Wellbeing Centre provides occupational health services under a private contractual arrangement with the Trust.

This privacy notice is part of our commitment to ensure that we process your personal information/data fairly and lawfully.

A separate Privacy Notice is in place for Employment Information.

**2.** **Why issue a privacy notice?**

Bradford Teaching Hospitals NHS Foundation Trust recognises the importance of protecting personal, sensitive and confidential information in all that we do and takes care to meet its legal and regulatory duties. This notice is one of the ways in which we can demonstrate our commitment to our values and being transparent and open.

This notice also explains what rights you have to control how we use your information.

**3. Security of Information**

During the course of its employment activities (and where applicable private organisations) , Bradford Teaching Hospitals NHS Foundation Trust collects, stores and processes personal and sensitive information about prospective, current and former staff in both electronic and paper formats. This includes Occupational Health information.

We recognise the need to treat personal and sensitive data in a fair, lawful and ethical manner and in compliance with professional standards.

No personal information held by the Trust will be processed unless the requirements for fair and lawful processing can be met.

The Information used is highly restricted to key staff in the Occupational Health Department and required in the course of their work for legitimate reasons. The information is not processed, transmitted or stored outside of the UK and is not made available to others outside of the department unless there is a legitimate reason or consent has been provided.

We take our duty to protect personal information and confidentiality very seriously. We are committed to complying with all relevant legislation and to take all reasonable measures to ensure the confidentiality and security of your personal data for which we are responsible.

All our staff are trained to handle your information correctly and to protect your confidentiality and privacy.

At Trust Board level, we have appointed a Senior Information Risk Owner who is accountable for the management of all information assets i.e. computer systems and any associated risks and incidents.

The Trust also has a Data Protection Officer who assists the organisation by providing independent specialist advice on data protection obligations and impact assessments as well as the primary contact for data subjects which includes staff members.

**4. Legal basis for processing your Data**

The General Data Protection Regulation (GDPR) 2018 and Data Protection Act (2018) requires the Trust to process:

Sensitive personal data (Health Records) under 9(2)(h) – “*Necessary for the reasons of preventative or occupational medicine, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services”* and occasionally 9(2)(c) “*when it is necessary to protect the vital interests of a person who is physically or legally incapable of giving consent*”

Personal data under 6(1)(e) “*Necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Trust (Data Controller)”* and occasionally 6(1)(d) “ *when it is necessary to protect the vital interests of a person who is physically or legally incapable of giving consent’*

Personal data for external (private) clients under 6(1)(f) *“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights or freedoms of the data subject which require protection of personal data, in particular where the data subject is a child”.*

**5. What types of personal data do we process?**

In order to carry out our activities and obligations as an occupational health service providing occupational and preventative healthcare we collect and process your information including:

* Personal demographics (this may include gender, age, race, ethnicity, sexual orientation, religion and disability);
* Contact details such as names, addresses, telephone numbers and emergency contact(s);
* Health information which forms part of the occupational health clinical records including about a physical health or mental condition; immunisation records; health surveillance records; statutory medical surveillance records; health promotion activity;
* Information relating to health and safety, including risk assessments;
* Any other personal information that may be relevant for the provision of an occupational health service.

**6. What is the purpose of processing data?**

To carry out our activities and obligations as an occupational health service providing occupational and preventative healthcare to staff and external clients.

We may use a variety of means, including questionnaires, forms, direct questioning, requests from third parties. Information may be collected by telephone, face-to-face, paper or electronic means.

**7. Sharing your information**

No confidential information held by the Occupational Health Department will be disclosed without your explicit informed consent with the exception of:

* Where the disclosure is required by law (for example if ordered by a judge or a presiding officer of a court using a court order; to the HSE under the Health &Safety at Work etc. Act 1974; for statutory requirement to notify certain infectious diseases; to the NHS Counter Fraud Service to detect and prosecute Fraud)
* Where the disclosure is in the public interest (for example where a worker’s health endangers others and the worker refuses to disclose information which would allow potential harm to be avoided)

Where disclosure of personal data is necessary for the above reasons, this will always be assessed on a case-by-case basis, using the minimum information necessary for the specific purpose and circumstances and with the appropriate security controls in place.

**8. Use of Third Party organisations**

To enable us carry out our activities and obligations as an occupational health service, we may share your information with very specific third party organisations for clearly identified and limited purposes:

Where data is shared with third parties there is always a contract agreement between the provider and the Trust. A senior manager has been identified to act as a lead person (Information Asset Owner) for each contract with responsibility for ensuring that your information is managed in a fair and lawful manner.

The list of organisations will change and processes are in place to ensure that these organisations are recorded and that they fully comply with their legal obligations to manage your information throughout its lifecycle.

***9.* Prevention and Detection of Crime and Fraud**

We may use the information we hold about you to detect and prevent crime or fraud. We may also share this information with other bodies that inspect and manage public funds.

We will not routinely disclose any information about you without your express permission. However, there are circumstances where we must or can share information about you owing to a legal/statutory obligation.

**10.** **Individuals Rights**

Data Protection laws give individuals rights in respect of the personal information that we hold about you.

Anyone including patients, staff, visitors, clients or contractors who has personal information recorded by the Trust either directly or indirectly has specific rights under current and future legislation. These include:

**10.1** Under the Data Protection Act - 6th Principle:

* a right of access to a copy of their personal data;
* a right to object to processing that is likely to cause or is causing damage or distress;
* a right to object to decisions being taken by automated means;
* a right in certain circumstances to have inaccurate personal data rectified, blocked, erased or destroyed; and
* a right to claim compensation for damages caused by a breach of the Act.

**10.2** Under the General Data Protection Regulation (GDPR)

* a right to confirmation that their personal data is being processed and access to a copy of that data which in most cases will be free of charge and will be available within one month (which can be extended to two months in some circumstances)
* Who that data has or will be disclosed to;
* The period of time the data will be stored for;
* a right in certain circumstances to have inaccurate personal data rectified, blocked, erased or destroyed. The right to be forgotten and erasure of data does not apply to an individual’s health record or for public health purposes
* Data Portability – data provided electronically in a commonly used format;
* The right to lodge a complaint with a supervising authority.

Please visit the Trust website for further details on this. Should you have any further queries on the uses of your information, please speak to the Workplace Health and Wellbeing Manager or our Data Protection Officer (dataprotectionofficer@bthft.nhs.uk) or the Information Governance Team (Information.Governance@bthft.nhs.uk).

If you are still unhappy with the outcome of your enquiry you can write to:  The Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF - Telephone: 01625 545700.