

Article 6 – Lawfulness of using personal data

Under GDPR (see [Data Protection Principles](#)) to use personal data lawfully we (the Trust) have to comply to the at least one of the specified conditions which are below. We mainly use conditions 1 and 2 for the provision of health and social care, and where sensitive data is used, we also use conditions A, B and C.

Condition 1) The Trust, as part of the NHS has a responsibility to provide health and social care. The use of personal information is needed in order to do this. Full details of article 6(1)(e) can be found [here](#).

Condition 2) The Trust to meet with legal requirements needs to use personal data. Processing is necessary for compliance with a legal obligation. Full details of article 6(1)(c) can be found [here](#).

There are additional conditions which are not normally used by the Trust but may be relevant in specific situations:

Condition 3) Consent: This is unlikely to be the most appropriate condition in the context of providing health and social care because it may limit the Trust in being able to treat the person. Full details of article 6(1)(a) can be found [here](#).

Note: In addition to Condition 3) Consent, there is a separate Common Law requirement on consent. Within the UK, as well as the law made in Parliament, there is also what is called 'Common Law'. This uses previous judgements made in a law Court as the basis for its decisions. Common law decisions run alongside any legal requirement.

Based on Common Law, if the Trust wished to disclose personal information to anyone beyond the team providing care, it should first seek the consent of that person either explicitly or in an implied way.

- Explicit consent is where agreement is documented.
- Implied consent is where the person could reasonably expect their data to be used in this way and has not objected. Implied consent can be done by providing information to the person, e.g. by privacy notices materials.

However, disclosure can be undertaken without consent if it is necessary to:

- Safeguard the individual, or others, or in the public interest;
- Where there is a legal duty to do so, for example a court order.

Condition 4) Contractual necessity: Not used for health and social care purposes because it relates to where there is a contract with the individual. Full details of article 6(1)(b) can be found [here](#).

Condition 5) Processing is necessary to protect the vital interests of a person, or other member of the public: This lawful basis may be used in life and death situations. Full details of article 6(1)(d) can be found [here](#).

Condition 6) Legitimate interests: This is not generally applicable to activities carried out by public authorities. Full details of article 6(1)(f) can be found [here](#).