

## **Lawful Processing: Data protection and data rights.**

We want to make sure that you know what personal information of yours we hold, why we hold it and what we do with it.

On 25<sup>th</sup> May 2018 a new law was introduced which informs us as to what we can and cannot do with your personal information; and also makes sure we tell you what your rights are about your personal data.

### **Why is this happening?**

Whether we shop online, listen to music or watch films, more and more of our information is being used online.

If it's on your laptop and iPad or an app on your smartphone, details about us - our personal information - is being used and held online.

How we and other organisations use your personal data is being changed by a by a new law called General Data Protection Regulation, usually called GDPR.

GDPR aims to make it easier to find out how our personal information is used and gives you more control (called data rights) on how it is used.

We will hold personal information on you, if you have used or are using our services (called your health records); If you have worked for us; or if you are a member of the Trust.

### **Why do I need to know?**

Under GDPR if we use or hold your personal information, we have to tell you.

We do this through what is called a Privacy Notice. The Privacy Notice tells you what we are doing, and why. It also tells you what is called the 'lawfulness of processing' – which means under the law we have to be able to show we have a right to do so.

This document tells you what those different legal reasons are.

There are 2 levels of personal information:

- Level 1 data, such as your name, your address, your birth date.
- Level 2 data (also called 'special categories'), such as your health records.

We have to tell you if we just use your personal data or your private (special categories) as well.

### **What do we mean by ‘using personal information’?**

Using, or processing information is what happens to your personal information when we have it. It’s more than how we use it, but also how we store your data and when it is not needed any more, how we delete it.

### **What do we mean by ‘data rights’?**

With the new law, you have rights about how your personal information is used. These are called ‘data rights’. There are 8 data rights, but their use may be limited depending on the situation:

- The right of access means the right to know whether we have personal data concerning you processed and if so, the right access it.
- The right to rectification. If the information we hold on you is inaccurate, then you have the right to have it corrected. This does not apply to changes to medical opinions or diagnoses.
- The right to erasure sometimes called the right to be forgotten.
- The right to restriction of processing. Simply you have a right to limit the processing of your personal data however there are rules and exceptions.
- The right to be informed. This is the right, to ask “who gets to see my personal data”.
- The right to data portability. This means if we need to be able to provide you your data in a reusable format, subject to limitations.
- The right to object. That does indeed mean what it says: if you don’t want it used for, e.g. research, you can say so.
- The right not to have any decisions about you made only by computerised decisions.

### Legal basis for processing personal information:

This summarises the legal authority that we, under current data protection legislation, process personal data, and the areas they cover.

<b>Surrey and Borders Partnership NHS Foundation Trust: For Health and Social Care:</b>	<b>Legal basis: Official Authority</b>	<b>Data Rights:</b>																
<p>Surrey and Borders Partnership NHS Foundation Trust is an official authority with a public duty to care for its patients, as guided by the Department of Health and data protection law.</p> <p>Under the legislation it is appropriate to do so for the health and social care treatment of patients, and the management of health or social care systems and services.</p>	<p>Level 1: Processing is necessary for compliance with a legal obligation ... in the exercise of official authority vested in the controller.</p> <p>Level 2: Processing is necessary for the purposes of preventative or occupational medicine... medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services ... or a contact with a health professional.</p>	<table border="0"> <tr><td>Right to be informed</td><td>Yes</td></tr> <tr><td>Right of access</td><td>Yes</td></tr> <tr><td>Right of rectification</td><td>Yes</td></tr> <tr><td>Right of erasure</td><td>No</td></tr> <tr><td>Right to restrict processing</td><td>Yes</td></tr> <tr><td>Right of data portability</td><td>No</td></tr> <tr><td>Right to object</td><td>Yes</td></tr> <tr><td>Rights in relation to automated processing</td><td>Yes</td></tr> </table>	Right to be informed	Yes	Right of access	Yes	Right of rectification	Yes	Right of erasure	No	Right to restrict processing	Yes	Right of data portability	No	Right to object	Yes	Rights in relation to automated processing	Yes
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<b>Surrey and Borders Partnership NHS Foundation Trust: For Research and Development:</b>	<b>Legal basis: Research</b>	<b>Data Rights:</b>																
<p>Surrey and Borders Partnership NHS Foundation Trust as a health and social care provider uses personal data for research.</p> <p>Under the legislation, it is appropriate to do so as part of a public task activity.</p>	<p>Level 1: Processing is necessary for the performance of a task carried out ... in the exercise of official authority vested in the controller.</p> <p>Level 2: Processing is necessary ... in the public interest, or... research purposes.</p>	<table border="0"> <tr><td>Right to be informed</td><td>Yes</td></tr> <tr><td>Right of access</td><td>Yes</td></tr> <tr><td>Right of rectification</td><td>Yes</td></tr> <tr><td>Right of erasure</td><td>No</td></tr> <tr><td>Right to restrict processing</td><td>Yes</td></tr> <tr><td>Right of data portability</td><td>No</td></tr> <tr><td>Right to object</td><td>No</td></tr> <tr><td>Rights in relation to automated processing</td><td>Yes</td></tr> </table>	Right to be informed	Yes	Right of access	Yes	Right of rectification	Yes	Right of erasure	No	Right to restrict processing	Yes	Right of data portability	No	Right to object	No	Rights in relation to automated processing	Yes
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Surrey and Borders Partnership NHS Foundation Trust: Commissioning and Planning purposes:	Legal basis: Legal obligation:	Data Rights:	
<p>Surrey and Borders Partnership NHS Foundation Trust has a legal requirement for the collection and provision of data.</p> <p>Under the legislation, it is appropriate to do so as part of a public task activity.</p>	<p>Level 1: Processing is necessary for the performance of a contract...</p> <p>Private information: Processing is necessary for the purposes of preventative or occupational medicine... medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services ... or a contact with a health professional.</p>	Right to be informed	Yes
		Right of access	Yes
		Right of rectification	Yes
		Right of erasure	No
		Right to restrict processing	Yes
		Right of data portability	No
		Right to object	Yes
		Rights in relation to automated processing	Yes
Surrey and Borders Partnership NHS Foundation Trust: Employment purposes:	Legal basis: Official authority:	Data Rights:	
<p>Surrey and Borders Partnership NHS Foundation Trust has a legal requirement for the collection and provision of data.</p> <p>Under the legislation, we have a legal basis to process personal data as part of employment (either permanent or temporary) or as part of the Trust's recruitment processes in compliance to data protection and employment legislation.</p>	<p>Personal information: Processing is necessary for the performance of a task carried out ... in the exercise of official authority vested in the controller.</p> <p>Private information: Processing is necessary for the purposes of carrying out the obligations and exercising the specific rights ... of the data subject in the field of employment...</p>	Right to be informed	Yes
		Right of access	Yes
		Right of rectification	Yes
		Right of erasure	No
		Right to restrict processing	Yes
		Right of data portability	No
		Right to object	Yes
		Rights in relation to automated processing	Yes

Surrey and Borders Partnership NHS Foundation Trust: Safeguarding purposes:	Legal basis: Official Authority:	Data Rights:	
<p>Surrey and Borders Partnership NHS Foundation Trust has a legal requirement for the purposes of safeguarding children and vulnerable adults.</p>	<p>Personal information: Processing is necessary for the performance of a task carried out ... in the exercise of official authority vested in the controller.</p> <p>Private information: Processing is necessary for the purposes of carrying out the obligations and exercising the specific rights ... of the data subject in the field of ... social protection law...</p>	<p>Right to be informed</p> <p>Right of access</p> <p>Right of rectification</p> <p>Right of erasure</p> <p>Right to restrict processing</p> <p>Right of data portability</p> <p>Right to object</p> <p>Rights in relation to automated processing</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>No</p> <p>Yes</p> <p>Yes</p>
Surrey and Borders Partnership NHS Foundation Trust: Recovery College:	Legal basis: Consent:		
<p>Recovery Colleges in Surrey and North East Hampshire are designed to support people in their recovery. They help people improve their health and wellbeing through educational courses on a range of psychological, mental and physical health conditions.</p>	<p>For details, please contact the Recovery College: <a href="https://www.sabp.nhs.uk/our-services/recovery/recovery-college">https://www.sabp.nhs.uk/our-services/recovery/recovery-college</a></p>		

<p><b>Surrey and Borders Partnership NHS Foundation Trust: Apple Tree Nursery</b></p>	<p><b>Legal basis: Consent:</b></p>
<p>Apple Tree Day Nursery was established in 1984 as the NHS nursery for West Park Hospital. Today we are run by Surrey and Borders Partnership NHS Foundation Trust but open to children from any family.</p> <p>The colleges are a partnership arrangement involving voluntary, NHS and local authority organisations, and existing Recovery Colleges.</p>	<p>For details, please contact Apple Tree Day Nursery: <a href="http://www.appletreedaynursery.com">http://www.appletreedaynursery.com</a></p>
<p><b>For Children and Family Health Surrey Alliance:</b></p>	<p><b>Legal basis:</b></p>
<p>Children and Family Health Surrey (CFHS) provides NHS children’s community health services across Surrey and north east Hampshire and Farnham.</p> <p>Children and Family Health Surrey services are provided under one contract by three established NHS providers: CSH Surrey, First Community Health and Care and Surrey and Borders Partnership NHS Trust.</p>	<p>For details concerning Children and Family Health Surrey, please refer to: <a href="http://www.childrenshealthsurrey.nhs.uk/about-us/privacy-policy">http://www.childrenshealthsurrey.nhs.uk/about-us/privacy-policy</a></p>

<b>For MindSight Surrey CAMHS:</b>	<b>Legal basis:</b>
MindSight Surrey CAMHS is a partnership of expert organisations including Beacon UK, Xenzone, Surrey Family Services, the National Autistic Society, Barnardo's, Relate West Surrey, Step by Step, Heads Together, Brain in Hand, Eikon, and Learning Space.	Please refer to: <a href="https://www.sabp.nhs.uk/mindsightsurreycamhs/about-us/our-partners">https://www.sabp.nhs.uk/mindsightsurreycamhs/about-us/our-partners</a>
<b>For Children and Family Health Surrey Alliance:</b>	<b>Legal basis:</b>
Children and Family Health Surrey (CFHS) provides NHS children's community health services across Surrey and north east Hampshire and Farnham.  Children and Family Health Surrey services are provided under one contract by three established NHS providers: CSH Surrey, First Community Health and Care and Surrey and Borders Partnership NHS Trust.	For details concerning Children and Family Health Surrey, please refer to: <a href="http://www.childrenshealthsurrey.nhs.uk/about-us/privacy-policy">http://www.childrenshealthsurrey.nhs.uk/about-us/privacy-policy</a>

Surrey and Borders Partnership NHS Foundation Trust: Trust Membership:	Legal basis: Official Authority	Data Rights:																
<p>As an NHS Foundation Trust thousands of local people have joined as members of our Trust and they help us shape the future direction of mental health, drug and alcohol, and learning disability services in Surrey and North East Hampshire.</p> <p>Membership is free and open to everyone living in England over 14</p>	<p>Level 1: Processing is necessary for the performance of a task carried out ... in the exercise of official authority vested in the controller.</p> <p>Level 2: Processing is necessary for the purposes of preventative or occupational medicine... medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services ... or a contact with a health professional.</p> <p>Level 2: Processing is necessary for reasons of substantial public interest... which is proportionate to the aim pursued and which contains appropriate safeguards.</p>	<table border="0"> <tr> <td>Right to be informed</td> <td>Yes</td> </tr> <tr> <td>Right of access</td> <td>Yes</td> </tr> <tr> <td>Right of rectification</td> <td>Yes</td> </tr> <tr> <td>Right of erasure</td> <td>No</td> </tr> <tr> <td>Right to restrict processing</td> <td>Yes</td> </tr> <tr> <td>Right of data portability</td> <td>No</td> </tr> <tr> <td>Right to object</td> <td>Yes</td> </tr> <tr> <td>Rights in relation to automated processing</td> <td>Yes</td> </tr> </table>	Right to be informed	Yes	Right of access	Yes	Right of rectification	Yes	Right of erasure	No	Right to restrict processing	Yes	Right of data portability	No	Right to object	Yes	Rights in relation to automated processing	Yes
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<b>More information:</b>	Surrey and Borders information:
For information on current data legislation: Information Commissioner’s Office (ICO): Website: <a href="https://ico.org.uk/">https://ico.org.uk/</a>	Details how Surrey and Borders NHS Trust, shares information: Website: <a href="https://www.sabp.nhs.uk/our-services/advice-guidance/sharing-your-info">https://www.sabp.nhs.uk/our-services/advice-guidance/sharing-your-info</a>
	For details on Surrey and Borders data protection issues: Data Protection Officer  Email: <a href="mailto:DPO@sabp.nhs.uk">DPO@sabp.nhs.uk</a> Post: Data Protection Officer, Information Governance, Surrey and Borders Partnership NHS Foundation Trust 18 Mole Business Park, Leatherhead, Surrey KT22 7AD
	Queries and how to access your Surrey and Borders health records:  Email: <a href="mailto:RXX.sabprecordsmanagement@nhs.net">RXX.sabprecordsmanagement@nhs.net</a> Website: Please visit the Surrey and Borders website to download our 'Records Management: Access to Health Records Guidance & Application form' <a href="https://www.sabp.nhs.uk/aboutus/policies/IT-Gov/recordsMgt/access2HrecsGuid">https://www.sabp.nhs.uk/aboutus/policies/IT-Gov/recordsMgt/access2HrecsGuid</a>