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# Information Governance Policy

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Document Information

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Date of Issue:	February 2026	Next Review Date:	September 2026
Version:	5	Last Review Date:	February 2025
Author:	Information Governance Officer		
Director Responsible	Director of Corporate Governance & Trust Secretary		
<b>Approval Route</b>			
<b>Approved By:</b>		<b>Date Approved:</b>	
Information Governance Operational Group			
Information Governance Steering Group		February 2025	
Information Governance Steering Group		February 2024	
Information Governance Steering Group		February 2023	
Links or overlaps with other policies:			
<p>We are committed to preventing discrimination, valuing diversity and achieving equality of opportunity. No person (staff, patient or public) will receive less favourable treatment on the grounds of the nine protected characteristics (as governed by the Equality Act 2010): Sexual Orientation; Gender; Age; Gender Reassignment; Pregnancy and Maternity; Disability; Religion or Belief; Race; Marriage and Civil Partnership. In addition to these nine, the Trust will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.</p> <p>We are committed to ensuring all services, policies, projects and strategies undergo equality analysis. For more information about equality analysis and Equality Impact Assessments please refer to the Equality and Diversity Policy.</p>			

Amendment History

Issue	Status	Date	Reason for Change	Authorised
0.1	Draft	Sept 2020	New policy	Information Governance Steering Group
2	Final	July 2021	No change	Information Governance Steering Group
2.1	Final	Nov 2021	Removal of duplication	Information Governance Steering Group
2.2	Final	Feb 2023	No change	Information Governance Steering Group
3	Final	Feb 2024	Minor updates	Information Governance Steering Group
4	Final	Jan 2025	No change	Information Governance Steering Group
5	Final (this version)	Feb 2026	Update to assurance routes to reflect new Trust structures	Information Governance Operational Group

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## 1. Introduction

- 1.1. This policy sets out how the Trust will ensure information is used effectively, efficiently, securely and legally.
- 1.2. The Trust recognises the need for an appropriate balance between openness and confidentiality in the management and use of information. The Trust fully supports the principles of corporate governance and recognises its public accountability while placing importance on the confidentiality and security of both personal information about patients, staff and commercially sensitive information. The Trust also recognises the need to share patient information with other organisations in a controlled manner consistent with the interests of the service user and in some circumstances, the public interest.
- 1.3. The Trust believes that accurate, timely and relevant information is essential to deliver the highest quality health and social care. It is the responsibility of all staff to ensure and promote the quality of information and to actively use information in decision making processes.

## 2. Openness

- 2.1. Non-confidential information on the Trust and its services should be available to the public through a variety of media.
- 2.2. To ensure 'openness' the Trust will:
  - Establish and maintain policies to ensure compliance with the Freedom of Information Act 2000 and Environmental Information Regulations 2004
  - Maintain a publication scheme as per the Freedom of Information Act 2000
  - Undertake or commission routine annual assessments and audits of some of its policies and arrangements for openness
  - Provide patients with access to information relating to their own health and social care, their options for treatment and their rights as patients
  - Have clear procedures and arrangements for liaison with the press and broadcasting media
  - Have clear procedures and arrangements for handling queries from patients, staff and the public
  - Inform patients about the proposed uses of their personal information • publish an annual report, including the Trust's achievement level of the Data Security & Protection Toolkit (DSPT).

## 3. Legal Compliance

- 3.1. To ensure 'legal compliance' the Trust will:
  - Manage all identifiable personal information relating to patients as confidential • undertake or commission routine annual assessments and audits of its compliance with legal requirements.

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- Treat all identifiable personal information relating to staff as confidential except where national policy on accountability and openness requires otherwise
- Establish and maintain policies to ensure compliance with data protection legislation, Human Rights Act 1998, the common law of confidentiality and the Freedom of Information Act 2000.
- Establish and maintain policies for the controlled and appropriate sharing of patient information with other agencies, taking account of relevant legislation

#### 4. Data Protection Legislation

4.1. Data protection legislation regulates the processing of information about living individuals, such as obtaining, use or disclosure of information. It covers paper and computer records.

4.2. Data protection legislation includes:

- **The Access to Health Records Act 1990:** UK data protection legislation does not cover the records of deceased patients. The Access to Health Records Act 1990 (AHRA) provides a small cohort of people with a statutory right of to apply for access to information contained within a deceased person's health record. There may be circumstances where individuals who do not have a statutory right of access under AHRA request access to a deceased patient's record.
- **Human Rights Act 1998:** A right to 'respect for private and family life' is guaranteed in article 8 of the Human Rights Act (HRA). This right is not absolute and is exempt 'where necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others'. The effect is similar to that of the common law: privacy is an important principle which must be respected but may be breached where other significant interests prevail. Any such breach must be proportionate to the benefits/harms it is intended to bring/avoid.
- **Computer Misuse Act 1990:** It is an offence under the Act to gain unauthorised access to computer. This includes using another person's ID/login and password without authority in order to use, alter or delete data.
- **The NHS Act 2006:** In England and Wales, Section 251 of the NHS Act 2006 gives the Secretary of State for Health power to make regulations permitting the disclosure of identifiable information without consent in certain circumstances. Health & social care professionals can apply to the Confidentiality Advisory Group (CAG), an independent public body which advises the Secretary of State for Health in England and Wales about the lawful basis for disclosure of patient identifiable information.
- **Common Law duty of confidentiality:** The common law is based on previous judgments in court. Whilst various interpretations of the common law may be possible, there is widespread acceptance that it reinforces the view that information may be disclosed with patient consent, where there is an overriding public interest or where the law requires it.
- **Data Protection Act 2018:** Everyone is entitled to be informed that information is being held about them and of the purposes for which their information will be

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processed. They are entitled to have access to and a copy of their information, except where there are grounds for believing that access to that information would be likely to cause serious harm to the individual or a third party or where it would entail disclosure of another individual's identifiable data. They are also entitled to have information corrected when it is inaccurate.

- **UK General Data Protection Regulations (UK GDPR):** The UK GDPR governs how organisations must use personal data. It sets out the principles for managing personal data within the UK, and requires personal data to be processed fairly, lawfully, with transparency and adequate security. It defines the rights of a 'data subject' and places obligations on both data controllers and processors in the management of personal data.

## 5. Information Security Assurance

5.1. To ensure 'Information Security/Assurance' the Trust will:

- establish and maintain policies for the effective and secure management of its information assets and resources
- undertake or commission annual assessments and audits of its information and IT Security arrangements
- promote effective confidentiality and security practice to its staff through policies, procedures and training
- establish and maintain incident reporting procedures and will monitor and investigate all reported instances of actual or potential breaches of confidentiality and security
- ensure adequate technical and organisational controls are in place from system development and procurement to decommissioning and destruction.
- Undertake data protection impact assessments for any processes or systems utilising personal data.

## 6. Quality Assurance

6.1. To ensure quality assurance the Trust will:

- establish and maintain policies and procedures for information quality assurance and the effective management of records in accordance with national standards • undertake or commission annual assessments and audits of its information quality and records management arrangements
- Ensure all managers to take ownership of and seek to improve the quality of information within their services
- Ensure, wherever possible, information quality should be assured at the point of collection
- Ensure data standards are set through clear and consistent definition of data items, in accordance with national standards
- Promote information quality and effective records management through local policies whilst adhering to Department of Health guidelines.

## 7. Responsibilities / Assurance

- 7.1. An Information Governance Operational Group chaired by the Data Protection Officer has been convened with representatives from each component of the Data Security and Protection Toolkit.
- 7.2. This reports into the Governance Delivery Group, chaired by the Senior Information Risk Officer (SIRO).
- 7.3. The purpose of this group is to support and deliver the IG agenda and ensure best practice mechanisms are in place across the Trust.

## 8. Training

- 8.1. Fundamental to the success of delivering IG Policies is developing an IG awareness culture within the Trust, providing training and promoting mindfulness for all staff. Training needs to be provided to all staff that utilise information in their day-to-day work to promote this culture.
- 8.2. To achieve this, a training needs analysis will be completed annually and monitored by the Information Governance Operational Group.

## 9. Resources

- 9.1. Resource implications incurred by the implementation of the IG Policies and action plan will be identified by the Information Governance Operational Group and met where appropriate by the organisation

## 10. Distribution

- 10.1. This policy document will be made available to staff via ICON, the Trust Website and signposted in the Staff Bulletin.
- 10.2. Awareness will be raised through Equality Impact Assessment training, all ratifying committees/groups, policies and procedures training and ICON.

## 11. Key Contacts

Contact	Email	Phone
Data Protection Officer	<a href="mailto:Tsdft.dpo@nhs.net">Tsdft.dpo@nhs.net</a>	07393 799539
Information Governance Team	<a href="mailto:tsdft.igteam@nhs.net">tsdft.igteam@nhs.net</a>	01803 654868
Data Access & Disclosure Office	<a href="mailto:tsdft.dataprotection@nhs.net">tsdft.dataprotection@nhs.net</a>	01803 654868
Senior Information Risk Officer	<a href="mailto:tsdft.siro@nhs.net">tsdft.siro@nhs.net</a>	
Caldicott Guardian	<a href="mailto:tsdft.caldicottguardian@nhs.net">tsdft.caldicottguardian@nhs.net</a>	
Freedom of Information Team	<a href="mailto:tsdft.foirequests@nhs.net">tsdft.foirequests@nhs.net</a>	

## 12. Appendices

Appendix 1: Rapid Equality Impact Assessment

### Appendix 1

**Rapid Equality Impact Assessment** (for use when writing policies and procedures)

<b>Policy Title</b> (and number)	<b>Information Governance Policy</b>	<b>Version and Date</b>	5
<b>Policy Author</b>	Information Governance Officer		
An equality impact assessment (EIA) is a process designed to ensure that a policy, project or scheme does not discriminate or disadvantage people. EIAs also improve and promote equality. Consider the nature and extent of the impact, not the number of people affected.			
<b>EQUALITY ANALYSIS:</b> How well do people from protected groups fare in relation to the general population? <b>PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below</b>			
<b>Is it likely that the policy/procedure could treat people from protected groups less favorably than the general population? (see below)</b>			
Age	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Disability	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Race	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Gender	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Gender Reassignment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Pregnancy/ Maternity	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
		Sexual Orientation	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
		Religion/Belief (non)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
		Marriage/ Civil Partnership	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Is it likely that the policy/procedure could affect particular 'Inclusion Health' groups less favorably than the general population?</b> (substance misuse; teenage mums; carers <sup>1</sup> ; travellers <sup>2</sup> ; homeless <sup>3</sup> ; convictions; social isolation <sup>4</sup> ; refugees)			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>Please provide details for each protected group where you have indicated 'Yes'.</b>			
<b>VISION AND VALUES:</b> Policies must aim to remove unintentional barriers and promote inclusion			
Is inclusive language <sup>5</sup> used throughout?			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Are the services outlined in the policy/procedure fully accessible <sup>6</sup> ?			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Does the policy/procedure encourage individualised and person-centered care?			Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Could there be an adverse impact on an individual's independence or autonomy <sup>7</sup> ?			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If 'Yes', how will you mitigate this risk to ensure fair and equal access?			
<b>EXTERNAL FACTORS</b>			
<b>Is the policy/procedure a result of national legislation which cannot be modified in any way?</b>			Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>What is the reason for writing this policy?</b> (Is it a result in a change of legislation/ national research?)			
To facilitate a standardized approach to policy documents across the Trust			
<b>Who was consulted when drafting this policy/procedure? What were the recommendations/suggestions?</b>			
<b>ACTION PLAN:</b> Please list all actions identified to address any impacts			
<b>Action</b>	<b>Person responsible</b>	<b>Completion date</b>	
<b>AUTHORISATION:</b> By signing below, I confirm that the named person responsible above is aware of the actions assigned to them			
<b>AUTHORISATION:</b> By signing below, I confirm that the named person responsible above is aware of the actions assigned to them			
<b>Name of person completing the form</b>	<b>Information Governance Officer</b>	<b>Signature</b>	
<b>Validated by (line manager)</b>	<b>Data Protection Officer</b>	<b>Signature</b>	

### Any issues Please contact Diversity & Inclusion Lead

For Torbay and South Devon NHS Trusts, please email [tsdft.diversityandinclusion@nhs.net](mailto:tsdft.diversityandinclusion@nhs.net)

<sup>1</sup> Consider any additional needs of carers/ parents/ advocates etc, in addition to the service user

<sup>2</sup> Travellers may not be registered with a GP - consider how they may access/ be aware of services available to them

<sup>3</sup> Consider any provisions for those with no fixed abode, particularly relating to impact on discharge

<sup>4</sup> Consider how someone will be aware of (or access) a service if socially or geographically isolated

<sup>5</sup> Language must be relevant and appropriate, for example referring to partners, not husbands or wives

<sup>6</sup> Consider both physical access to services and how information/ communication is available in an accessible format

<sup>7</sup> Example: a telephone-based service may discriminate against people who are d/Deaf. Whilst someone may be able to act on their behalf, this does not promote independence or autonomy