Disclosure and sharing of patient information policy

JENNER HOUSE SURGERY

Version:	Review date:	Edited by:	Approved by:	Comments:
1.0	December 2019	Emily Dewey	Dr Ku Rama	

1.0 Purpose and scope

1.1 The purpose of this policy is to provide clear guidance in relation to the circumstances when confidential information relating to a patient may be disclosed and/or shared.

1.2 This policy applies to all personal information held about a patient.

2.0 Policy statement

2.1 As a principle, seeking the consent of a patient to the disclosure of their information shows respect, and is part of good communication between doctors and patients.

2.2. Most patients understand and accept that information must be shared within the healthcare team in order to provide their care. We will make sure that information is readily available to patients, explaining that (unless they object) personal information about them will be shared within the healthcare team, including administrative and other staff who support the provision of their care.

2.3. We will respect the wishes of any patient who objects to particular information being shared within the healthcare team or with others providing care, unless disclosure would be justified in the public interest.

2.4. If a patient objects to a disclosure that is considered essential to the provision of safe care, it will be explained to them that they cannot be referred (or we cannot otherwise arrange for their treatment) without also disclosing that information.

2.5. We will make every effort to ensure that anyone to whom we disclose personal information understands that it is being given to them in confidence, which they must respect.

2.6. All staff members receiving personal information in order to provide or support care are bound by a legal duty of confidence, in addition to the contractual and professional obligations to protect confidentiality.

3.0 Circumstances where a patient will not be consulted about disclosure

3.1 Circumstances may arise in which a patient cannot be informed about the disclosure of information; for example, in a medical emergency. In such a case the relevant information will be passed to those providing the patient's care. If and when the patient is capable of understanding, they will be informed of how their personal information was disclosed, if it was in a way they would not reasonably expect.

3.2 All doctors in clinical practice have a duty to participate in clinical audit and to contribute to National Confidential Inquiries. If an audit is to be undertaken by the team that provides care, or those working to support them, such as clinical audit staff, we may disclose identifiable information, provided we are satisfied that the patient:

- has ready access to information that explains that their personal information may be disclosed for local clinical audit, and that they have the right to object; and,
- has not objected.

If a patient does object we will explain why the information is needed and how this may benefit their own and others' care. If it is not possible to provide safe care without disclosing information for audit, we will explain this to the patient and the options open to them.

3.3 If clinical audit is to be undertaken, but not by the team that provided care or those who support them, the information should be anonymised or coded. If this is not practicable, or if identifiable information is essential to the audit, we will only disclose the information with the patient's express consent.

4.0 Disclosures for which express consent should be sought

4.1 As a general rule, we will seek a patient's express consent before disclosing identifiable information for purposes other than the provision of their care or local clinical audit (such as financial audit and insurance or benefits claims).

4.2 If we are asked to provide information to third parties (such as a patient's insurer or employer, or a government department, or an agency assessing a claimant's entitlement to benefits, either following an examination or from existing records), we will:

- Provide the patient with a full copy of their medical record in the first instance. This will place the patient themselves as the controller of their data and the responsibility is on the individual to decide what information they will be sharing and with whom.

If a patient does not wish to receive a copy of their medical record before sending, we will:

- need to be satisfied that the patient has sufficient information about the scope, purpose and likely consequences of the examination and disclosure, and the fact that relevant information cannot be concealed or withheld;
- obtain (or have seen) written consent to the disclosure from the patient or a person properly authorised to act on the patient's behalf. (It is permissible to accept an assurance from an officer of a government department or agency, or a registered health professional acting on their behalf, which the patient or a person properly authorised to act on their behalf has consented.);
- only disclose factual information we can substantiate, presented in an unbiased manner, relevant to the request; so we will not usually disclose the whole record (although it may be relevant to some benefits paid by government departments and to other assessments of patients' entitlement to pensions or other health-related benefits); and,
- offer to show the patient, or give them a copy of, any report written about them for employment or insurance purposes before it is sent, unless:
    i. they have already indicated they do not wish to see it;
    ii. disclosure would be likely to cause serious harm to the patient or anyone else;
    iii. disclosure would be likely to reveal information about another person who does not consent.

4.3 If a patient refuses to give their consent, or if it is not practicable to get their consent, information can still be disclosed if it is required by law or can be justified in the public interest. If the purpose is covered by a regulation made under Section 251 of the *NHS Act 2006*, disclosures can also be made without a patient's consent, but not if the patient has objected.

Sharing for the purpose of direct patient care

Often the Practice receives requests for summaries, copy letters and extracts from consultations from clinicians in other organisations, e.g. hospitals, nursing homes, mental health units. The individual must do the following when addressing these requests:

- Review the request carefully, seeking the advice of the Practice Manager where further guidance is needed.
- If sending documentation via email, this should only ever be sent to an NHSMail email address (@nhs.net). If you are requested to send information to an email other than @nhs.net please seek further advice from the Practice Manager on how to encrypt the email. Guidance can be found here: https://www.mansfieldandashfieldccg.nhs.uk/media/1984/email-guidance-how-to-send-an-encrypted-email-to-gmail-nhsuk-hotmail.pdf
- If you have received a request over the telephone, ask the requestor to email the request so that we are assured we have their email address correct.
- If the recipient requests the information via fax, carefully document the requestors fax number and ensure fax is sent securely via Fax to Email, double checking all details before sending.

- If you receive a request for information from an individual outside of the NHS (excluding solicitors, insurers) for example from a Nursing Home, look for evidence of patient or carer consent on the request form before sending. If in doubt discuss the request with the Practice Manager before actioning.