

# Data Sharing Agreement

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Between St Stephens Gate Medical Practice incorporating  
D82008 and Newmarket Road Surgery D82069

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## **1. Purpose:**

This Information Sharing Agreement has been formulated to facilitate the exchange of information between the Parties. It must be stressed that all exchanges of information must have a legal justification for disclosure and that it is necessary to share this information for the purposes outlined below:

- To provide seamless clinical care to patients from both D-lists
- To enable audits, reviews and recalls to take place within a robust framework.
- To enable necessary Patient administration

The Parties have entered into this Information Sharing Agreement to facilitate and enable the smooth transition of information sharing between them.

Completion of the Information Governance Toolkit for each individual practice is a requirement for the Information Sharing Agreement. Completion of the Governance toolkit also meets the best practice guidance of the Information Commissioners Data Sharing Code of Practice. This could consist of data being transferred just once or on an ongoing regular basis, as agreed by the Parties involved.

## **2. Who is involved?**

This Information Sharing Agreement has been agreed between:

D82008 St Stephens Gate Medical Practice and D82069 Newmarket Road Surgery

## **3. Information to be shared**

Clinical records will be shared throughout subject to full IGO Governance principles and both Organisations will maintain their ICO Registrations and IG Toolkit entries up to date.

## **4. Basis for sharing information**

This Information Sharing Agreement is entered into for the purpose of the parties sharing information as required or permitted under the data protection legislation and any other relevant legislation which shall include (but not limited to):

- Data Protection Act 1998 (DPA)
- Freedom of Information Act 2000
- Human Rights Act 1998
- Mental Health Act 1983
- Health and Social Care Act 2012
- Mental Capacity Act 2005
- HSCIC Guide to Confidentiality
- Information Governance/Caldicott 2 Review: To Share or Not to Share
- Records Management NHS Code of Practice
- NHS England Safe haven Procedure
- NHS Constitution
- Information Security Management: Code of Practice
- Data Sharing Code of Practice
- Privacy Notices Code of Practice
- Any other relevant legislation, standards or guidance

The Parties acknowledge and agree that they will share information whenever either or both Parties are under a statutory duty to do so. In this case, the Party requesting the information shall make clear in its Data Sharing Request the legislation underpinning the request for information and the disclosure of information shall comply with the relevant legislation and be made in accordance with the terms of this Information Sharing Agreement, if applicable.

The Parties acknowledge and agree that they will not be bound by the terms of this Information Sharing Agreement in the event either or both of them are prohibited to share information by any legislation.

If consent is deemed to be required for the sharing of personal data, this will be a transparent process.

Where it has been identified that the Parties are permitted to share information without obtaining consent, this should be justified, if required, under their statutory or legal powers. Data subjects should be made aware of this decision and provided with the details of the data share. Unless, by doing this will risk harm to others or hinder any investigation or legal proceeding.

The decision to share information without consent will be fully documented and held within the patients' care record.

## **5. Access and individuals' rights**

Requests for information under the Data Protection Act 1998 will be dealt with by the data holding organisation in line with their internal process and procedures. The practice the patient is registered with.

Each Party shall have a formal procedure which the data subject can direct their complaints regarding the application of this Information Sharing Agreement.

## **6. Keeping information secure**

The following security measures will be place:

- All paper documents will be held in a secure storage area when not in use
- Fax only to be sent to confirmed numbers
- All staff to follow organisational policies relating to Consent, Confidentiality and IT Usage.
- Emailed confidential information should be sent by NHS email to NHS email
- All information to be encrypted if NHS email is not available, confidential information must be attached to the email as password documents and passwords to follow by text or phone.
- Electronic patient records will be accessed by smart card
- Each smartcard is unique to the user for audit purposes
- The information shared between the Parties must not be disclosed to any third party.
- Each Party shall ensure that access to information provided by the other Party under this Information Sharing Agreement will only be granted to those staff who 'need to know' the information.
- The Parties shall comply with the requirements of the current Information Governance Toolkit in handling the shared information securely.

## **7. Frequency of sharing**

Information will be shared/accessed on a need to know basis when the requirements to view arises.

## **8. Data Retention**

Information will be held for the minimum amount of time in line with the records management code of practice.

## **9. Responsibility for exchanging these data and ensuring data are accurate**

Caldicott Guardians within each practice who have signed the Information Sharing Agreement as having overall responsibility within their own organisation have the duty for ensuring the organisation has complied with the appropriate arrangement

The Parties in discharging their obligations under this Information Sharing Agreement shall comply with the eight Data Protection Principles.

The Parties shall ensure that the information shared is relevant and proportionate to the purpose for which it is shared and comply with the Data Protection Principles.

Information will not be passed to any third party other than allowed by law.

Retention for the intelligence purposes shall be allowed but only in line with the Data Protection Principles.

All Parties involved have agreed that the service users (data subjects) need to be informed of the following:

- What information is going to be shared
- In what format is the data going to be exchanged
- Who the information is going to be shared with
- For what purposes it will be used

Unless by doing so would risk harm to self or others or hinder any investigation or legal proceedings.

Patients at both practices will be informed by a notice on the website and by prominent poster display.

Each Party must appoint a single point of contact who must work together to ensure the processes of the agreement are fully adhered to.

## **10. Breach of Confidentiality**

Any information breaches e.g. theft, loss, damage or inappropriate disclosure of information must be reported to the Caldicott Guardian and Risk Officer of both practices..

No data should be stored on the hard drive and if so it should be removed and transferred as soon as possible

## **11. Review of Information Sharing Protocol**

This Information Sharing Agreement shall commence on the Effective Date and shall continue until terminated by either Party under clause 12.2.

Either Party may terminate this Information Sharing Agreement at any time after the Effective Date with immediate effect by written notice on the other Party.

The effectiveness and appropriateness of this Information Sharing Agreement will be monitored on a regular basis taking into account any changes in legislation / or service.

The contents of the Information Sharing Agreement will be reviewed on an annual basis.

## **12. General**

**Law and Jurisdiction:** The Information Sharing Agreement shall be governed by and interpreted in accordance with the law of England and Wales and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

**Third parties:** A person who is not a party to the Information Sharing Agreement shall not have any rights under or in connection with it.

**Dispute Resolution:** The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Information Sharing Agreement. By agreement, the Parties may refer a dispute to mediation by a neutral adviser or mediator appointed by the Parties or by the Centre for Dispute Resolution. Unless otherwise agreed, all negotiations occurring in the course of such mediation shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.

**Waiver:** The failure of either Party to exercise any right or remedy shall not constitute a waiver of that right or remedy. No waiver shall be effective unless it is communicated to the other Party in writing. A waiver of any right or remedy arising from a breach of the Information Sharing Agreement shall not constitute a waiver of any right or remedy arising from any other breach of the Information Sharing Agreement.

**Severability:** If any provision of the Information Sharing Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the Information Sharing Agreement shall continue in full force and effect as if the Information Sharing Agreement had been executed with the invalid, illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Information Sharing Agreement, the Parties shall immediately commence negotiations in good faith to remedy the invalidity.

This document will be published on both websites and a Notice in each practice so that patients can inspect it and comment as required.