

## Non Disclosure and Confidentiality Agreement:

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### Background Information

Where another NHS organisation or a non-NHS agency or individual is engaged to carry out or support an NHS function, the appropriate confidentiality and security requirements must be agreed.

The standard specified in the agreement should be consistent with the Information Governance standards expected of NHS organisations. These are based on the requirements of the Human Rights Act 1998 and 'common law duty of confidentiality'. The Data Protection Act 1998 reiterates this point and makes it a legal requirement that effective agreements exist where a third party processes data. In addition for support functions that do not directly process data but may become party to it, it is a requirement to keep information confidential.

In addition the organisation requires any contracted individual or organisation to respect any commercial confidentiality and intellectual property claimed by the organisation in the provision and handling of documentation and information.

To ensure best practice within your environment, it is advisable to extend this advice to any third party that has any access to personal identifiable data. This is to ensure that the confidentiality of sensitive information is upheld.

The following form should be used for this purpose. Copies should be kept by all parties.

Any patient information, particularly their health or treatment details, is highly sensitive. If such information was leaked to the wrong people, it could cause severe embarrassment to the patients concerned, their families and to the organisation. There could be legal action following such a breach of confidentiality.

In addition any inappropriate or unauthorised disclosure of commercially sensitive information or unlicensed reuse of intellectual property could be subject to legal action.

**Please read carefully and ensure this form is fully completed and signed.**

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## **Non Disclosure and Confidentiality Agreement:**

This agreement relates to requirements of the Data Protection Act 1998, the Human Rights Act 1998, the 'common law duty of confidentiality' and the Freedom of Information Act (2000).

1. The following terms apply where an organisation or its staff may gain access to, or have provided to it, personal identifiable information (defined within the terms of the Data Protection Act 1998) when working for, or with..... (the 'data controller'). It also applies where the contracted third party is privilege to commercially sensitive information, security related information and any intellectual property of the contracting organisation.
2. The access referred to in point 1 above may include:
  - ◆ Access to or sharing of information held in any electronic format or on paper
  - ◆ Information that is part of verbal discussions
3. Any information (personal or organisational) will only be used for purposes agreed between the organisations. Information will be retained for a period agreed between the parties and destroyed by an agreed method.

Agreed purposes are:	<b><i>To be completed</i></b>
Agreed retention period:	<b><i>To be completed</i></b>
Agreed destruction method:	<b><i>To be completed</i></b>

4. Any work involving access to personal identifiable information will be done by formally authorised staff of the organisation (except as provided in paragraph 5 below). The organisation shall keep a record of all such authorisations.

Information containing a unique number (e.g. NHS, NI or organisational) or a combination of items from the following list is personal identifiable data:  
Name, Address, Postcode, Date of Birth, Other Dates (i.e. death, diagnosis), Sex, Ethnic Group or Occupation.

5. Where the organisation sub-contracts any work it is doing on behalf of ..... this agreement will be an explicit part of that sub-contract.
6. All personal identifiable information will be treated as confidential and will not be disclosed to any other persons outside the requirements of the above agreed purpose(s), without agreement of the 'data controller'. Any organisational information marked as 'commercial' or 'sensitive' or by implication of the subject could prejudice the commercial interests of either party will be treated as confidential.
7. Use an NHSmail account to send and receive personally identifiable data. Contact IT Servicedesk for assistance on 0845 051 46 46.

8. Where the activities performed by the contractor do not require them to process information but they may become party to it by overseeing or overhearing, they will be required to keep such information confidential.
9. Any breach of the terms of this agreement may result in termination of arrangements (including formal contracts) and legal action may be taken.
10. The organisation is responsible for ensuring their staff/sub-contractors adhere to the terms of this agreement.

**I agree to the above terms and conditions (Recipient/Data Processor)**

**Signed:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Organisation:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Representative of the 'data controller' (Disclosing party)**

**Signed:** \_\_\_\_\_

**Print Name:** \_\_\_\_\_

**Organisation:** \_\_\_\_\_ **Date:** \_\_\_\_\_