

## Privacy Statement for Staff

22<sup>nd</sup> May 2018

### Key Points

- **Why we use your personal data:** The provision of personal data is necessary in order for the organisation to enter into an employment relationship with you.
- **Why we use your sensitive personal data:** In performing our role as your employer, Oxleas may use information about your health, racial and ethnic origin, sexual orientation, religion and/or membership of a trade union.
- **Who else has access to your personal data?** Third party service providers may process your personal information on our behalf in line with our instructions.
- **How secure is your personal data?** We respect the security of your data and treat it in accordance with the law.
- **Transferring your data internationally:** We will not transfer your data outside of the EU.

## 1 WHAT IS THE PURPOSE OF THIS PRIVACY STATEMENT?

- 1.1 Under data protection legislation we are required to explain to our employees why we collect information about you, how we intend to use that information and whether we will share your information with anyone else.
- 1.2 This statement applies to all current employees, workers, contractors, governors and volunteers.
- 1.3 This statement does not form part of any contract of employment or other contract to provide services. We may update this statement at any time.
- 1.4 It is important that you read this statement so that you know how and why we use information about you. It is also important that you inform us of any changes to your personal information we hold about you so that the information we hold is accurate and current.

## 2 WHO ARE WE?

- 2.1 We are Oxleas NHS Foundation Trust (**Oxleas**). Our head office is located at Pinewood House, Pinewood Place, Dartford, Kent, DA2 7WG.
- 2.2 We are a "data controller" in respect of the information we hold about you. This means that we are responsible for deciding how we use your information.

## 3 OUR DATA PROTECTION OFFICER

- 3.1 Our Data Protection Officer is responsible for overseeing what we do with your information and monitoring our compliance with data protection laws.

- 3.2 If you have any concerns or questions about our use of your personal information, you can contact our Data Protection Officer, by phone on 01322 299872, or by email at [oxl-tr.dpo@nhs.net](mailto:oxl-tr.dpo@nhs.net) or by writing to The Data Protection Officer, Oxleas NHS Foundation Trust, Bracken House, Bracton Lane, Leyton Cross Road, Dartford, DA2 7AF.

#### 4 TYPES OF PERSONAL INFORMATION WE USE

- 4.1 We are collecting information about you which is relevant to your employment. This includes:
- 4.1.1 **personal details** (such as name, date of birth, gender, marital status and national insurance number);
  - 4.1.2 **contact details** (such as your address, personal telephone number and personal email address);
  - 4.1.3 **confirmation of your identity** (such as a copy of your driving licence);
  - 4.1.4 **recruitment information** (such as copies of right to work documents, references and other information included in a CV or cover letter or as part of the application process);
  - 4.1.5 **information about your family and others** (such as dependants, next of kin and emergency contact numbers);
  - 4.1.6 **information about your remuneration** (such as bank account details, payroll records, tax status information, salary history, pension and benefits);
  - 4.1.7 **information about your employment with us** (such as start date, location of employment / workplace and periods of absence);
  - 4.1.8 **information about your previous employment and qualifications** (such as job titles, work history, working hours, training records, professional memberships and salary / compensation history);
  - 4.1.9 **your performance with us** (such as appraisal information, performance improvement plans and colleague and customer feedback);
  - 4.1.10 **your pension scheme membership details;**
  - 4.1.11 **disciplinary and grievance information;**
  - 4.1.12 **security information** (such as CCTV footage and swipe card information, etc);
  - 4.1.13 **information about your use of our information and communications systems;**
  - 4.1.14 **information about your use of our business-related social media** (such as LinkedIn);
  - 4.1.15 **incoming and outgoing telephone conversations** may be recorded for monitoring purposes;
  - 4.1.16 **membership information** (if applicable, the status of your membership with Oxleas);
  - 4.1.17 **photographs of you;** and
  - 4.1.18 **work contact details** (we will use your work email address to share important work related communications with you, such as regular staff news bulletins, updates, policies, links to current related news stories, features and surveys etc).

## **Special categories of personal data**

4.2 Some of the information which we collect about you may be “special categories of personal data”. Special categories of data require a greater level of protection. The special categories of personal data about you which we may collect include:

4.2.1 information about your **race or ethnicity, religious or philosophical beliefs, sexual orientation and political opinions** (for equal opportunity purposes);

4.2.2 **trade union membership;**

4.2.3 information about your **health**, including any medical condition or disability, workplace adjustments, health and sickness records; and

4.2.4 information about **criminal convictions and offences.**

## **5 SOURCE OF YOUR PERSONAL INFORMATION**

5.1 The above information which we collect about you will be obtained through a variety of sources which include:

5.1.1 from you directly as part of the recruitment process;

5.1.2 from third parties as part of the recruitment process (such as employment agencies, background check providers, former employers);

5.1.3 information obtained about you in the course of job-related activities throughout the period of your employment with us.

## **6 HOW AND WHY WE USE YOUR PERSONAL INFORMATION**

6.1 We use the types of personal information listed above for a number of purposes, each of which has a "lawful basis". In accordance with the data protection laws, we need a "lawful basis" for collecting and using information about you. There are a variety of different lawful bases for using personal information which are set out in the data protection laws.

6.2 We have set out below the different purposes for which we collect and use your personal information, along with the lawful bases we rely on to do so.

| <b>Why we use your information</b>                                                                                                                                                                                                                                                                                                              | <b>Our lawful basis for using your information</b>                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Workplace adjustments / health and safety:</b><br>We will use information about your physical or mental health, or disability status, to ensure your health and safety in the workplace and to assess your fitness to work, to provide appropriate workplace adjustments, to monitor and manage sickness absence and to administer benefits; | <b>Contract:</b> It is necessary in order for us to perform our contract with you.<br><b>Legal obligations:</b> It is necessary to meet legal / regulatory obligations.<br><b>Employment:</b> It is necessary for us to carry out our rights and obligations as your employer.*<br><b>Health:</b> It is necessary to assess the working capacity of our employees* |
| <b>Monitoring performance,</b> such as conducting performance reviews; managing performance and determining performance requirements;                                                                                                                                                                                                           | <b>Contract:</b> It is necessary in order for us to perform our contract with you.                                                                                                                                                                                                                                                                                 |

| Why we use your information                                                                                                                                                                                                                               | Our lawful basis for using your information                                                                                                                                                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>considering education, training and development requirements; assessing qualifications for a particular job or task, including decisions about promotions);</p>                                                                                        | <p><b>Legal obligations:</b> It is necessary to meet legal / regulatory obligations.</p> <p><b>Legitimate interest:</b> It is necessary for our legitimate interests (where they are not overridden by your rights).</p>                                                                                                                                                                                                   |
| <p><b>Payment and salary related activities</b>, such as making payments to you, deducting tax and National Insurance contributions, liaising with your pension provider; making decisions about salary reviews and compensation;</p>                     | <p><b>Contract:</b> It is necessary in order for us to perform our contract with you.</p> <p><b>Employment:</b> It is necessary for us to carry out our rights and obligations as your employer.*</p>                                                                                                                                                                                                                      |
| <p><b>Day to day employment activities</b>, such as administering the contract we have entered into with you, providing you with education, training and development, business management and planning, including accounting and auditing;</p>            | <p><b>Contract:</b> It is necessary in order for us to perform our contract with you.</p> <p><b>Legitimate interest:</b> It is necessary for our legitimate interests (where they are not overridden by your rights).</p> <p><b>Employment:</b> It is necessary for us to carry out our rights and obligations as your employer.*</p>                                                                                      |
| <p><b>Grievance, disciplinary or legal disputes</b>, such as gathering evidence for possible grievance or disciplinary hearings; dealing with legal disputes involving you, or other employees, workers and contractors, including accidents at work;</p> | <p><b>Contract:</b> It is necessary in order for us to perform our contract with you.</p> <p><b>Legitimate interest:</b> It is necessary for our legitimate interests (where they are not overridden by your rights).</p> <p><b>Legal obligations:</b> It is necessary to meet legal / regulatory obligations.</p> <p><b>Legal claims:</b> It is necessary for the establishment, exercise or defence of legal claims*</p> |
| <p><b>Determining your continued employment / engagement</b>, such as making decisions about your continued employment or engagement, making arrangements for the termination of our working relationship;</p>                                            | <p><b>Contract:</b> It is necessary in order for us to perform our contract with you.</p> <p><b>Legal obligations:</b> It is necessary to meet legal / regulatory obligations.</p> <p><b>Employment:</b> It is necessary for us to carry out our rights and obligations as your employer.*</p>                                                                                                                             |
| <p><b>Monitoring your health</b>, such as ascertaining your fitness to work, managing sickness absence, complying with health and safety obligations.</p>                                                                                                 | <p><b>Contract:</b> It is necessary in order for us to perform our contract with you.</p> <p><b>Legal obligations:</b> It is necessary to meet legal / regulatory obligations.</p>                                                                                                                                                                                                                                         |

| Why we use your information                                                                                                                                                                                                                                                                                                                                                                                                        | Our lawful basis for using your information                                                                                                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p><b>Employment:</b> It is necessary for us to carry out our rights and obligations as your employer.*</p> <p><b>Health:</b> It is necessary to assess the working capacity of our employees*.</p> <p><b>Consent:</b> In certain situations, we may require your consent in order to obtain and disclose information about your health.*</p> |
| <p><b>Monitoring your use of our information and communication systems</b> to ensure compliance with our IT policies; to ensure network and information security, including preventing unauthorised access to our computer and electronic communications systems and preventing malicious software distribution; to conduct data analytics studies to review and better understand employee retention and attrition rates; and</p> | <p><b>Contract:</b> It is necessary in order for us to perform our contract with you.</p> <p><b>Legitimate interest:</b> It is necessary for our legitimate interests (where they are not overridden by your rights).</p>                                                                                                                     |
| <p>To <b>comply with our legal obligations</b> such as to prevent fraud and equal opportunities monitoring.</p>                                                                                                                                                                                                                                                                                                                    | <p><b>Contract:</b> It is necessary in order for us to perform our contract with you.</p> <p><b>Legitimate interest:</b> It is necessary for our legitimate interests (where they are not overridden by your rights).</p>                                                                                                                     |
| <p><b>Staff surveys</b> to receive your views on the ways in which we could improve our services and improve your employment environment.</p>                                                                                                                                                                                                                                                                                      | <p><b>Consent:</b> We will only collect and use this information if you have provided your consent for us to do so.</p>                                                                                                                                                                                                                       |
| <p><b>Equality:</b> We will use information about your race or national or ethnic origin, religious, philosophical or moral beliefs, or sexual orientation, to ensure meaningful equal opportunity monitoring and reporting</p>                                                                                                                                                                                                    | <p><b>Legal obligations:</b> It is necessary to meet legal / regulatory obligations.</p> <p><b>Employment:</b> It is necessary for us to carry out our rights and obligations as your employer.*</p>                                                                                                                                          |
| <p><b>Trade unions:</b> We will use trade union membership information to pay trade union premiums, register the status of a protected employee and to comply with employment law obligations.</p>                                                                                                                                                                                                                                 | <p><b>Legal obligations:</b> It is necessary to meet legal / regulatory obligations.</p> <p><b>Employment:</b> It is necessary for us to carry out our rights and obligations as your employer.*</p>                                                                                                                                          |
| <p>* This is an additional lawful basis which we need to rely on in order to use special categories of data such as information about your health</p>                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                               |

## **7 HOW WE USE INFORMATION ABOUT CRIMINAL CONVICTIONS**

- 7.1 We will only collect information about criminal convictions if it is appropriate given the nature of the role and where we are legally able and / or required to do so. This will usually be where such processing is necessary to carry out our obligations and provided we do so in line with our data protection policy.
- 7.2 For certain roles within Oxleas will require as part of our regulatory requirements either a 'standard', 'enhanced' or 'enhanced with barred list information' Disclosure and Barring Service check to be carried out.
- 7.3 Where appropriate, we will collect information about criminal convictions as part of the recruitment process or we may be notified of such information directly by you in the course of you working for us. We will use information about criminal convictions and offences in the following ways:
- 7.3.1 To assess whether you are a fit and proper person to work for us.
- 7.3.2 To assess the relevance of any cautions or convictions to your particular role.
- 7.4 We are allowed to use your personal information in this way to carry out our obligations as your employer and because it is necessary to meet legal / regulatory obligations.
- 7.5 Less commonly, we may use information relating to criminal convictions where it is necessary in relation to legal claims, where it is necessary to protect your interests (or someone else's interests) and you are not capable of giving your consent, or where you have already made the information public.
- 7.6 We may also process such information in the course of legitimate business activities with the appropriate safeguards.

## **8 WHAT MAY HAPPEN IF YOU DO NOT PROVIDE YOUR PERSONAL INFORMATION?**

- 8.1 If you refuse to provide certain information when requested, we may not be able to perform the contract we have entered into with you (such as paying you or providing a benefit), or we may be prevented from complying with our legal obligations (such as to ensure the health and safety of our workers). If this is the case, we may be required to terminate your employment.

## **9 COMPLYING WITH DATA PROTECTION LAW**

- 9.1 We will comply with data protection law. At the heart of data protection laws are the "data protection principles" which say that the personal information we hold about you must be:
- 9.1.1 used lawfully, fairly and in a transparent way;
- 9.1.2 collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes;
- 9.1.3 relevant to the purposes we have told you about and limited only to those purposes;
- 9.1.4 accurate and kept up to date;
- 9.1.5 kept only as long as necessary for the purposes we have told you about; and
- 9.1.6 kept securely.

## 10 SHARING YOUR INFORMATION

- 10.1 We will share your personal information with third parties where required by law, where it is necessary to administer the working relationship with you or where we have another legitimate interest in doing so.
- 10.2 Some "third parties" are service providers (including contractors and designated agents) carrying out activities on our behalf. Other third parties will be data controllers in their own right. This means that they are not required to act on our instructions and they are solely responsible for ensuring that they comply with the law when using your personal information. We are not responsible for their use of your data if we are acting lawfully whenever we share your data with them.
- 10.3 The types of organisations with whom we may share your personal information include:
- 10.3.1 **Service providers** (such as external IT providers, systems maintenance providers and telephone call recording for monitoring purposes);
  - 10.3.2 **Benefits providers** (such as NHS Pension Scheme);
  - 10.3.3 **NHS Shared Business Services** (to enable the payment of your salary and administration of your pension contributions);
  - 10.3.4 **Our insurers** (such as employees' life insurance and private medical insurance providers);
  - 10.3.5 **Regulators and other professional registration organisations** (e.g. in respect of fitness to practice hearings);
  - 10.3.6 **The Police and other law enforcement agencies** (in limited circumstances we may share your personal data with the police if required for the purposes of criminal investigations and law enforcement);
  - 10.3.7 **Professional advisors** (such as lawyers, in the exercise or defence of legal claims);
  - 10.3.8 **Other entities in the NHS** (for example with ESR as part of the NHS streamlining programme);
  - 10.3.9 **Electoral Reform Services** (for the purposes of staff elections where you are a member of Oxleas); and
  - 10.3.10 **Occupational Health** (to support the management of sickness absence / attendance at work).
  - 10.3.11 **Freedom of Information Act requests** (Your name, role, band, base, work contact telephone number and email address are considered to be in the public domain, as we work for a public health authority. As such, these may be disclosed under a Freedom of Information Act request).

## 11 TRANSFERRING INFORMATION OUTSIDE THE EEA

- 11.1 We will transfer the personal information we collect about you to the following countries outside the EU in order to perform our contract with you: United States of America.
- 11.2 Third party organisations based in the US are each subject to the US/EU Privacy Shield. This means that both organisations are part of a scheme which is designed to protect your personal information. As a result, we are not required to obtain specific authorisation to transfer your information to the US.

- 11.3 If you require further information about these protective measures, you can request it from the Data Protection Officer.

## **12 CAN WE USE YOUR INFORMATION FOR ANY OTHER PURPOSE?**

- 12.1 We typically will only use your personal information for the purposes for which we collect it. It is possible that we will use your information for other purposes as long as those other purposes are compatible with those set out in this policy. If we intend to do so, we will provide you with information relating to that other purpose before using it for the new purpose.
- 12.2 We may also use your personal information for other purposes where such use is required or permitted by law.

## **13 STORING YOUR INFORMATION AND DELETING IT**

- 13.1 We will only retain your personal information for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. We ordinarily follow the retention periods set out in the NHS Records Management Code of Practice.
- 13.2 To determine the appropriate retention period for personal information, we consider the amount, nature, and sensitivity of the personal information, the potential risk of harm from unauthorised use or disclosure of your personal information, the purposes for which we process your personal information and whether we can achieve those purposes through other means, and the applicable legal requirements.
- 13.3 Retention periods may be extended in some situations, such as where clinical staff are involved in a negligence claim involving a child (in which the usual 3 year personal injury limitation period is extended until that child reaches 21 years of age). We also have systems in place where staff may be at risk of certain diseases or where they were involved in an incident that could give rise to a clinical negligence claim, to extend the retention period of their personal data in line with these situations.
- 13.4 In some circumstances we may anonymise your personal information so that it can no longer be associated with you, in which case we may use such information without further notice to you.
- 13.5 Once you are no longer an employee, worker or contractor we will retain and securely destroy your personal information in accordance with our data retention policy.

## **14 SECURITY OF YOUR INFORMATION**

- 14.1 The information that you provide will be stored securely on our systems. Our security measures and procedures reflect the seriousness with which we approach security and the value we attach to your information. We have put in place appropriate security measures to prevent your personal data from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed.
- 14.2 We have put in place procedures to deal with any suspected personal data breach and will notify you and any applicable regulator of a breach where we are legally required to do so.

## **15 YOUR RIGHTS**

- 15.1 Under certain circumstances, by law you have the right to:
- 15.1.1 **Request access** to your personal information (commonly known as a “data subject access request”). This enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it.
- 15.1.2 **Request correction** of the personal information that we hold about you. This enables you to have any incomplete or inaccurate information we hold about you corrected.



- 15.1.3 **Request erasure** of your personal information in certain circumstances. This enables you to ask us to delete or remove personal information where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal information where you have exercised your right to object to processing (see below).
  - 15.1.4 **Object to processing** of your personal information if we are relying on a legitimate interest (or those of a third party) or official authority as our lawful basis for processing and there is something about your particular situation which leads you to object to processing on this ground. You also have the right to object if we are processing your personal information for direct marketing purposes.
  - 15.1.5 **Request the restriction of processing** of your personal information. This enables you to ask us to suspend the processing of personal information about you, for example if you want us to establish its accuracy or the reason for processing it.
  - 15.1.6 **Request the transfer** of your personal information to another party in certain circumstances.
- 15.2 If you want to review, verify, correct or request erasure of your personal information, object to the processing of your personal information, or request that we transfer a copy of your personal information to another party, please contact our Data Protection Officer in writing.

## **16 RIGHT TO WITHDRAW CONSENT**

- 16.1 In the limited circumstances where we are relying on your consent as our lawful basis to process your data for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. To withdraw your consent, please contact our Data Protection Officer in writing to Data Protection Officer, Oxleas NHS Foundation Trust, Bracken House, Bracton Lane, Leyton Cross Road, Dartford, DA2 7AF or by email to [oxl-tr.dpo@nhs.net](mailto:oxl-tr.dpo@nhs.net). Once we have received notification that you have withdrawn your consent, we will no longer process your information for the purpose or purposes you originally agreed to, unless we have another legitimate basis for doing so in law.

## **17 RIGHT TO COMPLAIN TO THE ICO**

- 17.1 You have the right to complain to the Information Commissioner's Office (the "ICO") if you are not satisfied with the way we use your information. You can contact the ICO by writing to Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

## **18 CHANGES TO THIS PRIVACY STATEMENT**

- 18.1 We reserve the right to update this privacy statement at any time, and we will provide you with a new privacy statement when we make any substantial updates. We may also notify you in other ways from time to time about the processing of your personal information.