

## **Confidentiality Policy**

Review Date 4<sup>th</sup> July 2019

Next Review Due 4<sup>th</sup> July 2021

**Physiotherapy2fit Ltd is committed to ensuring that, as far as it is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on the basis of their age, disability, gender, race, religion/belief or sexual orientation. Should a member of staff or any other person require access to this policy in another language or format (such as Braille or large print) we will do our best to provide this in a format the user is able to access. Physiotherapy2fit Ltd will do its utmost to support and develop equitable access to all policies. The Director is responsible for ensuring staff are aware of Physiotherapy2fit Ltd policies and that staff adhere to them. It is also the Director's responsibility to keep staff up to date with new policy changes.**

**Staff are responsible for ensuring they are familiar with policies, know where to locate the documents on Physiotherapy2fit's main website, and seek out every opportunity to keep up to date with them**

**Independent contractors are expected to identify a lead person to be responsible for ensuring staff employed within their place of work are aware of Physiotherapy2fit Ltd policies.**

### **INTRODUCTION**

1. This policy sets out the required standards for all P2F staff in order to ensure and maintain the confidentiality of patient information.
2. The Director is able to provide guidance on clinical ethics and is available to address concerns from staff.
3. Issues relating to research ethics and patient confidentiality should be addressed to the Director who will seek external guidance if out of her remit.
4. Professional bodies, e.g. The Chartered Society of Physiotherapy and the General Medical Council, have produced guidelines on confidentiality for professional practitioners and can be approached for advice and guidance. The Department of Health (DH) 'Confidentiality - NHS Code of Practice' forms the foundation of this policy.
5. The Data Protection Act 1998 and the NHS Confidentiality Code of Practice underpins this Code of Confidentiality; staff must ensure they familiarise themselves with P2F's Data Protection policy and GDPR policy.
6. The Director will ensure that all staff are made aware of this policy, particularly in relation to their own responsibilities. Staff must also familiarise themselves with other related P2F policies. The use of all cameras must be explicitly consented and are subject to the Code of Responsible Practice for Medical Illustration. The Director as well as professional bodies and defence organisations, may be approached for advice. If staff wish to take a photo this must be done on the patients own mobile device rather than their own, which is strictly prohibited.



## **PROVIDING A CONFIDENTIAL SERVICE**

7. Patient information is generally held under legal and ethical obligations of confidentiality. Information provided in confidence should not be disclosed in a form that might identify a patient without his or her consent. There are a number of exceptions to this rule, which are detailed in this Policy.
8. Patients have a right to expect that the information provided by them in confidence will be held in confidence by all P2F staff. Confidentiality is central to the trust between clinical staff and patients.

## **PROTECT PATIENT INFORMATION**

9. Patients' health information must be protected through a number of measures:
  - o Ensure all staff, contractors and volunteers are at all times fully aware of their responsibilities regarding confidentiality
  - o Record patient information accurately and consistently
  - o Keep patient information confidential
  - o Keep patient information physically secure
  - o Disclose and use information with appropriate care
  - o Ensure that disclosure of information passed outside P2F is in accordance with the Caldicott Principles, GDPR regulations and the Data Protection Act 1998.

## **INFORM PATIENTS EFFECTIVELY – NO SURPRISES**

10. P2F must actively inform patients of the intended use of their information, give them the choice to give or withhold their consent and protect their identifiable information from unwarranted disclosure.
11. Staff should consider situations in which patients would be surprised to learn that their information was being used in a particular way – if so, they are not being effectively informed.
12. Whenever possible all staff must make clear to patients how their information is used or shared to provide the best possible care. Comments like the following might be appropriate:
13. Make it clear to patients how their information is recorded in their health records and on the P2F computer system(s)
  - o Be open and honest with the patient on what information is recorded in their health records
  - o Whenever possible all staff must make it clear to patient show their information is used or shared to provide the best possible care, this may require no more than a comment such as:
    - o *When writing a referral letter explain to the patient - 'I am going to refer your details to the GP or Clinical Assessment Service who will contact you to arrange a course of therapy'*



o *When entering information into an electronic record explain to the patient - 'I am referring you to another physiotherapist for a second opinion. Other P2F staff will view your details to assess when you will be treated. All your test results will be available to help with this assessment 'In respect of other agencies explain to the patient – 'I will tell the exercise referral scheme about your other health problems to help them when devising an exercise programme for you.'*

o Inform patients that they have the right to know, and possibly object to how their information may be disclosed/shared

o Ensure that patients have no concerns or queries about how their information is disclosed and used

o Answer any queries, or direct a patient to others who can answer their questions, about how their information is used

o Respect the rights of patients and facilitate them in exercising their rights to have access to their health records, where applicable.

14. If staff are not able to answer a patient's queries on how their information is used, they will provide contact details for the director for the patient to discuss their queries.

## **PROVIDE CHOICE TO PATIENTS**

15. Patients have different needs and values – this must be reflected in the way they are treated, both in terms of their medical condition and the handling of their personal information. Staff must:

o Seek the patient's consent prior to using their information in ways that do not directly contribute, or support the delivery of their care

o Respect a patient's decisions to restrict the disclosure or use of their information, expect where exceptional circumstances apply

o Communicate effectively with patients to ensure they understand the implications if they choose to agree or restrict the disclosure of their information.

16. All staff should be aware that patients have the right to object to the use and disclosure of confidential information that identifies them. Staff must therefore be provided with training on how to seek and record consent from patients on the use of their medical records.

## **IMPROVING CONFIDENTIALITY**

17. Staff must:

o Be aware of the issues surrounding confidentiality, and seek training and support when uncertain on how to deal with these breaches



- Report all possible or risk of breaches of confidentiality
- Ensure that they apply the Caldicott principles every time they are sharing information.

18. Staff should check that any callers, by telephone or in person, are correctly identified. There can be a significant risk of harm to a patient through impersonation by those seeking information improperly. Official identification should be sought, or identity checked by returning the call using an independent source for the telephone number. Staff must also check that the caller has a legitimate right to have access to the requested information. If in doubt the patient should be consulted or the request for information declined.

19. Staff should share the minimum information necessary to provide safe care or to satisfy other legitimate purposes, bearing in mind that missing information can harm patient care.

### **DISCLOSING CONFIDENTIAL PATIENT INFORMATION**

20. Most patients understand and accept that information must be shared with other healthcare professionals in order to provide their care. When information needs to be provided to members of staff who are not directly involved in a patient's care, the information must be kept to a minimum and wherever possible anonymised (See Appendix A for a definition).

21. Similarly, where information needs to be shared between members of care teams from different organisations efforts must be made to inform the patient of the breadth of disclosure of their information.

22. To facilitate the provision of high-quality healthcare it is necessary to share information with other NHS professionals. However, activities such as clinical governance, clinical audits might not be obvious uses of a patient's information and should be drawn to their attention.

23. P2F has outpatients' booklets which will inform and provide guidelines for staff on how to inform patients on how their data is used/disclosed to provide their health care.

24. In the case of the temporarily incompetent (e.g. unconscious) patient, it may be necessary to ask relatives for information needed to provide optimal treatment. It is neither necessary nor justified to reveal confidential information about the patient in order to do so. Information can be given about the patient's current status which does not breach confidentiality (e.g. 'We are looking after your brother and trying completely to understand his condition. To do this, we need some more information about him and would be grateful if you can help us.').

25. A patient's confidentiality must be respected in response to enquiries from external individuals or organisations (e.g. media, police, insurance companies). In these circumstances express consent must be obtained from the patient and/or proper (legal) authority demonstrated before any disclosure can be made.

26. Should follow the standards and procedures that have been set out in the Information Sharing Policy when disclosing confidential patient information with other organisations and agencies.

### ***Exceptional Circumstances***

27. Exceptional Circumstances where disclosure may be permitted are detailed in professional bodies' guidance. Information can be disclosed without patient consent:

- o where there is a risk of death or serious harm to others e.g. a patient who drives contrary to medical advice

- o where there is a statutory duty e.g. in the case of a patient with a notifiable disease, Reporting of Injuries Diseases and Dangerous Occurrences Regulations (RIDDOR)

- o when required to do so by a court order

28. Where a patient is a victim of neglect, physical or sexual abuse reference should be made to the identification of inadequate care and protection of 'adults at risk' from using the Safeguarding Vulnerable Adults Policy, which covers the difficult issue of consent in these circumstances.

29. When information is disclosed without a patient's consent, this must be recorded in the patient's health record and the member of staff must be prepared to justify their decision for disclosing patient information without consent.

### ***Children and young people***

30. Children under the age of 16 who are competent to make decisions about their own treatment without parental involvement are also competent to make decisions about the use and disclosure of information sufficient understanding in relation to the proposed treatment to give (or withhold) consent, his or her consent (or refusal) should be respected. However, the child should be encouraged to involve parents and other legal guardians

31. A clinician who discloses information in these circumstances must be prepared to justify his or her reasons for so doing. The child should be told that information will be disclosed and the reasons for it. The amount of information disclosed should be the minimum necessary to enable an appropriate inquiry to be carried out. Reference should also be made to the Trust's Child Protection Policy.

32. Where a child is not able to fully understand the nature and purpose for disclosing information, a person with parental responsibility should be approached to obtain consent. However, it is considered good practice to obtain the child's views on the disclosure of their information.

33. Where there are reasonable grounds for believing that a child is at risk of or has suffered significant harm e.g. as a result of physical or sexual abuse, the healthcare professional



should disclose information to the appropriate authorities. He or she should attempt to obtain consent for this unless to do so would place the child at risk of serious harm. Where information is disclosed, the healthcare professional must be able to demonstrate the information disclosure had been carefully considered and was in the best interests of the child. The child and family should be informed of the disclosure unless to do so would place the child at risk of serious harm.

### ***Complaints***

34. Where there is a complaint relating to the care of a patient, the patient must be made aware that staff who have not been involved in their care will have access to information contained within their health record.

### ***Subject Access Requests***

35. Patients are entitled to obtain a copy of their health record, and it is good practice for all staff to be open with patients about all information that is entered into their health record.

36. Requests to access patient information from either patients, solicitors or others acting on behalf of patients must be passed to the Admin Staff or treating Clinician, for handling under the Information Sharing Policy.

### ***Management and Contracting Information***

37. Patient information is used for management and contracting purposes, both in and outside P2F e.g. sent to Strategic Health Authority or GP. Where this is the case, unique personal identifiers should be used i.e. the NHS number.

38. All transfers of patient information to organisations outside of P2F must be registered and approved by the Director except in the case of patient referral to secondary care or discharge to the referring clinician.

### ***Audit and Validation issues***

39. Staff must ensure that the patient information is sent securely e.g. nhs.net email account

40. There are situations where it is not reasonable to obtain consent for the use or disclosure of patient identifiable information. Where this is the case, Section 251 of the NHS Act 2006 provides authorisation to allow patient identifiable information to be disclosed without the consent of the patient e.g. clinical audit, record validation.

41. There are situations where it is not reasonable to obtain consent for the use or disclosure of patient identifiable information. Where this is the case, Section 251 of the NHS Act 2006 provides a power to ensure that patient identifiable information needed to support essential NHS activity can be used without the consent of patient's e.g. clinical audit, record validation.

## ***Health Records***

42. In order to use Section 251, an application must be submitted to the Ethics and Confidentiality Committee of the National Information Governance Board. The Head of Information Governance can provide advice on how to apply for exemptions under Section 251.
43. When a single or small number of health records are moved from one location to another within P2F staff must endeavour to ensure that case-notes are placed in a sealed envelope, marked “confidential” and addressed to a member of staff located within a department.
44. There are circumstances when patients hold a copy of their health record e.g. maternity. In these circumstances, staff must ensure that the patient is made aware that they must keep these notes secure and confidential.
45. Wherever possible patients should not be asked to carry their own (unsealed) case notes from P2F Clinic to another.
46. Large numbers of health records must be collected from a secure location and transported by locked briefcase. They must not be left unattended at any time in an insecure place and staff should ensure that no patient information is on display whilst being transported e.g. front of case-notes turned over.

## ***Research***

47. All healthcare research must be conducted in accordance with the principles of the Data Protection Act, codes of practice on patient confidentiality and research ethics committee standards.

## **UNINTENTIONAL DISCLOSURE**

48. There are a number of situations where unintentional disclosure may occur, whether as a result of bad practice or as a result of a system failure.
49. Discussions about patients, whether as part of formal meetings or as informal exchanges about patients between professionals, on or off the P2F premises, can easily lead to inadvertent disclosure. Staff should ensure that all those attending meetings relating to patient care are aware of, understand and abide by this Confidentiality Code of Practice.
50. Personal identifiers should be removed in presentations in grand rounds, audit and other sessions with other staff not involved in patient care.
51. Conversations about patients in open or public areas within P2F (e.g. waiting areas, corridors and lifts) or outside (e.g. streets, buses, trains) must be avoided.
52. Staff must take care to protect patient information when holding a telephone conversation in a public area, to ensure that personal details cannot be overheard.





53. Staff should avoid where possible placing clinical information on display boards in clinical areas that can be seen by patients and visitors.

54. Clinical staff must not store patient-identifiable clinical information on personal organisers or diaries, which may inadvertently be seen by the public.





## **Related Publications**

Confidentiality NHS Code of Practice (DH guidance)

[http://www.dh.gov.uk/en/Managingyourorganisation/Informationpolicy/Patientconfidentialityandcaldicottguardians/DH\\_4100550](http://www.dh.gov.uk/en/Managingyourorganisation/Informationpolicy/Patientconfidentialityandcaldicottguardians/DH_4100550)

NMC Professional Code of Conduct

<http://www.nmc-uk.org/Nurses-and-midwives/Advice-by-topic/A/Advice/Confidentiality/>

Caldicott Report

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4068403](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4068403)

General Medical Council Confidentiality: Protecting and Providing Information

[http://www.gmc-uk.org/guidance/ethical\\_guidance/confidentiality.asp](http://www.gmc-uk.org/guidance/ethical_guidance/confidentiality.asp)

Information Commissioners Website - Use and Disclosure of Health Data

<http://www.informationcommissioner.gov.uk/cms/DocumentUploads/Use%20and%20Disclosure%20of%20Health%20Data.pdf>

Data Protection Act 1998

GDPR legislation

North East Inner London Information Sharing Protocol

Department of Health - Seeking Consent: Working with Children

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_4007005](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_4007005)



## APPENDIX A Glossary

### Patient identifiable information

- • Key identifiable information includes:
- • patient's name, address, full post code, date of birth;
- • pictures, photographs, videos, audio-tapes or other images of patients;
- • NHS number and local patient identifiable codes;
- • anything else that may be used to identify a patient directly or indirectly. For example,

rare diseases, drug treatments or statistical analyses which have very small numbers within a small population may allow individuals to be identified.

### Anonymised Information.

This is information which does not identify an individual directly, and requires the removal of name, address, full post code and any other detail or combination of details that might support identification.

### Pseudonymised Information

This is like anonymised information in that in the possession of the holder it cannot reasonably be used by the holder to identify an individual. However it differs in that the original provider of the information may retain a means of identifying individuals. This will often be achieved by attaching codes or other unique references to information so that the data will only be identifiable to those who have access to the key or index.

Pseudonymisation allows information about the same individual to be linked in a way that true anonymisation does not.



**PHYSIOTHERAPY 2 FIT**

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