

## **Title: Confidentiality and Consent**

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Revision History			
Revision	Date	Pages changed	Purpose of Issue/Description of Change
2.00	19/05/2017		Ref to Trust policies included
2.1	04.05.2018	4	Changed consent from : next of kin to appropriate persons
2.2	27/03/2019	4	Updated related documents

### 1.0 Purpose

All personnel have a professional and contractual obligation to maintain confidentiality in respect of information obtained about patients or fellow colleagues during the course of their duties.

All patients have a right to expect that information held about them will only be used for the purpose intended and will not be released to others without the consent of the patient being obtained.

### 2.0 Scope

This document describes the procedure for consent and confidentiality of the Department of Pathology.

### 3.0 Responsibilities

The senior staff in Pathology are responsible for ensuring the implementation and maintenance of this procedure. All staff are to abide by this procedure.

### 4.0 Procedure

#### 4.1 Confidentiality

##### 4.1.1 Principles of confidentiality

Patient information is legally protected by the common law duty of confidentiality. There are also constraints imposed by other laws such as the Data Protection Act of 1998. Patients and their relatives should expect that any information about them held by the Pathology Laboratory will be treated in total confidence. Any information that is acquired during the course of duties must only be disclosed to people who are directly concerned with the diagnosis and treatment of that patient. This applies even if patients are personally known to members of staff. It is important that when patient information is passed on this is done in a confidential setting and not in front of colleagues or other patients who have no right to that information. Confidentiality must be maintained for all forms of patient record be they paper based or electronic, personal or medical details or images. A breach of confidentiality is a disciplinary offence.

Records may include:

Paper records, such as request forms, pathology reports or mortuary ledgers

Computer records

Records archived onto microfiche or CDROM

#### 4.1.2 Use and disposal of paper records

Any paper records which contain identifiable patient data (e.g. reports, meeting lists, request forms, etc.) must be kept within a secure environment and disposed of in a proper fashion. Unattended documents and papers should not be left on view. Disposal should normally be by destruction using a shredding machine or by placing in a secure shredding bin. In certain circumstances incineration is acceptable provided that the records are placed in sealed bags, and placed in a secured receptacle set aside for material for incineration for collection by an agency which ensures a guaranteed and tracked route to incineration.

#### 4.1.3 Computers

The pathology computer system is password protected and individual passwords are changed on a three monthly basis. Staff should take care to log out or to lock their system when they have finished working and to ensure that they do not leave a logged in computer unattended, if access can be gained by non-authorised staff or patients.

If patient data or confidential information is held on PCs care should be taken not to leave computer files on screen. Letters and documents should be archived to secure folders on the network servers as soon as is practicable.

#### 4.1.4 Patient records and medical notes

These should be kept within a secure environment. Unattended documents and papers should not be left on view. Similarly, patient records should not be removed from Trust premises unless absolutely necessary and great care taken not to leave them unattended (e.g. in car boots).

## 4.2 Consent

### 4.2.1 Principles of Consent

For consent to be valid it must be given:

- by a person with capacity
- voluntarily
- with appropriate knowledge or information

Consent for Hospital Post Mortems (*FORM-MORT-021*) must be given by either:

Hierarchy of qualifying relationships Persons are ranked in the following descending order:

- spouse or partner (including civil or same sex partner)
- parent or child (in this context a child may be of any age)
- brother or sister
- grandparent or grandchild
- niece or nephew
- stepfather or stepmother
- half-brother or half-sister
- friend of long standing

Or by the coroner

Consent does not depend on the form in which it is given. Written consent merely serves as evidence of the consent but for consent to be valid it must satisfy the conditions above. Consent

is required not just for procedures to patients but for the release of information, the use of removed tissue, clinical photography and video recordings.

#### 4.2.2 Release of patient data and clinical material

Named or identifiable patient data or clinical material should normally only be released with consent. This would normally relate to information being released to other health care professionals involved in the care and treatment of the patient. Informed consent for release of personal information may also apply to clinical trials. However, in certain circumstances data may be released to NHS organisations (e.g. Cancer Registries) where a named patient is essential for the proper functioning of the organisation, and the Trust and department are satisfied that release is for the common good and that all stages of data exchange will maintain confidentiality and that the receiving organisation will not disclose any information in a non-anonymised way.

#### 4.2.3 Clinical trials

The department will only release patient data or clinical material (primary diagnostic material or surplus material for research) if approval has been given by the Local Research Ethics Committee. The conditions of use and stipulated consent procedures will be as required by the LREC. The department will act as custodian on behalf of the Trust.

#### 4.2.4 Material retained under Coroner's Rule 9

The pathologist and department will only retain material that is required to investigate and establish the cause of death. The Coroner has currently indicated that blocks and slides should be retained even when his investigations are complete, pending further guidance as to the ultimate fate of such material. Release of such material to any third party should only take place with the consent from the appropriate person and with the permission of the Coroner. Information kept in the mortuary is of a particularly sensitive nature and should be treated with the utmost care and respect.

### 5.0 Related documents

POL-PATH-012: Policy on Patient Confidentiality

FORM-MORT-021: Post-mortem Examination Consent Form

### 6.0 References

POL-MY-029 Confidentiality Policy Statement and Supporting Guidance

POL-MY-CP-015 Consent to examination and treatment policy