

DATA PROTECTION FOR EMPLOYMENT RECORDS PROCEDURE

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|--|---|
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VALIDITY – Policies should be accessed via the Trust intranet to ensure the current version is used.

CHANGE RECORD

| Version | Date | Change details |
|---|----------------|---|
| <i>P006 – Data Protection for employment Records policy</i> | | |
| 1.18 | 03/10/11 | Updates to contacts, links and logs |
| 1.19 | 18/01/12 | Updates to links |
| 1.20 | 06/08/12 | Addition of 5.3 and Appendix B – CRB secure storage |
| 2.0 | Sept. 2016 | Scope and links updated. Bribery Section added. Updated reference from Criminal Records Bureau (CRB) to Disclosure and Barring Service. Retention periods in 5.2 updated in line with Records Management Code of Practice for Health and Social Care 2016. Employee Information Access Guide incorporated into the policy under Section 5.4. |
| <i>Policy transferred to Procedure Proc450(IG)</i> | | |
| 1.0 | Nov 2016 | Policy updated to a procedure. |
| 2.0 | September 2019 | Reviewed and updated in line with Data Protection Act 2018 and General Data Protection Regulation (GDPR). Appendix B updated in line with the Handling of DBS certification information July 2018. |
| | May-22 | Document updated to correct Trust procedure format (Policy Management) |
| 3.0 | June 22 | References to EU GDPR updated. Section 3.4.3 added in relation to Disciplinary Case Files. Retention updated in line with latest Records Management COP and HSE retention schedules. Monitoring updated to include all SAR requests. Appendix B updated in line with latest Handling of DBS Certificate Information. Approved at Information Governance Group (13 July 2022). |

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1. INTRODUCTION

The aim of this procedure is to ensure compliance with the Data Protection Act 2018 and UK General Data Protection Regulation for all personal data held about employees in both manual and computerised formats.

The procedure will explain the structure of employment records within the Trust and outline the responsibilities of managers/supervisors for maintaining and storing supervision records in accordance with data protection legislation.

The procedure supports the Caldicott and Data Protection Policy.

2. SCOPE

This procedure applies to all employees of the Trust, including all staff who are seconded to the Trust, contract, voluntary, temporary and agency staff and other people working on Trust premises. This includes members of staff with an honorary contract or paid an honorarium.

3. PROCEDURES

3.1. Structure of Employment Records

In order to ensure that the Trust meets its obligations under the data protection legislation, records in relation to Human Resources, Payroll, Training and Occupational Health will be held centrally within each of the relevant departments. A local supervision record may also be held by the line manager/supervisor.

Appendix A details the documents/information that will be held in each of these records.

Each area will maintain a Record of Processing Activities (ROPA) carried out in their area using the template supplied by the Information Governance Team. This should be seen as live document that is updated when processing activities change. The Information Governance Team must be provided with an updated copy of the record when changes are made.

3.2. Privacy Notice

All new starters will be provided a copy of the staff Privacy Notice ([click here for a copy](#)) explaining how their personal data will be used by the Trust.

3.3. Management of Employment Records

The managers and supervisors who hold employment records must:

- Ensure that the employee is aware of the personal data held by the manager/supervisor about them and the purpose for holding such data.
- Be aware that the personal data about the employee should only be used for employment purposes, as outlined in the staff Privacy Notice ([click here for a copy](#))
- Only hold information that is relevant to the individual and not record excessive information, bearing in mind that the individual is entitled to have access to the information.
- Ensure that any actions relating to patient care are included in the patient's case notes. Such actions may have arisen from a clinical supervision, MDT or professional meeting.
- Only hold information that is specified in Appendix A, under Supervision Record.
- Be able to direct employees to the process that allows employees access to their records, see Section 3.6.
- Keep information about staff accurate and up to date. If a member of staff feels that their information is inaccurate, please follow the process in Section 3.6.4.
- Hold employee information securely in line with the Confidentiality Code of Conduct.

- Restrict access to any employee information held in a computer format on Trust servers to line manager/supervisor and head of service.
- Retain manual employee information in a locked cabinet and restrict access to the line manager/supervisor.
- If a duty is delegated to another member of staff, for example the completion of absence return forms, managers must ensure that the person fully understands the confidential nature of such information and the need to keep such information secure.
- If an employee transfers internally, send the local supervision record held by the manager/supervisor to the employee's new line manager/supervisor. It will be the responsibility of the receiving line manager/supervisor to ensure receipt of the information.
- Ensure that the transfer of any employee information is secure by following the Trust's Safe Haven Procedure.
- Destroy information that has expired in a confidential manner, e.g. shredding.
- Seek advice from the appropriate department (HR, Payroll, Occupational Health or Training) prior to disclosing employee information to unauthorised/unknown persons or persons outside of the Trust (other than for employment references – see Recruitment and Selection Policy and Procedure).

3.4. Retention of Employment Records

3.4.1. Supervision Records (Clinical and Managerial Supervision)

Supervision records will be retained by the manager/supervisor for seven years after employment has ended. For current employees, the last seven years of supervision records for an employee should be held. If the supervisor leaves the Trust, the records should be transferred to the new manager.

3.4.2. Personal Employment Record

Personal employment records held by Human Resources will be retained, at a minimum, until the individual's 75th birthday or until six years after cessation of employment if aged over 70 year at the time. Approximately six months after leaving the Trust, the record will be transferred to an offsite storage facility.

Staff returns, overtime authorisations and information relating to absences will be held for three years plus the current year.

3.4.3. Disciplinary Case File

Disciplinary case file will be held in a separate file so that they can be expired at the appropriate time, in line with the [Disciplinary Policy](#). This does not mean that there should be no record that the disciplinary process has been engaged in the main record, as it may be pertinent to have an indication that a disciplinary investigation took place.

Disciplinary records will be retained for a period of 6 years from the case being heard and any appeals process being completed. The record may be retained for longer, but this will be a local decision based on the facts of the case. The more serious the case, the more likely it will attract a longer retention period. Likewise, a one-off incident may need to only be kept for the minimum time stated.

3.4.4. Payroll

Payroll records will be held for a minimum of 10 years. Pension records will be held for a minimum of 10 years.. Information relating to medical certificates, self-certificates, mileage, subsistence, expenses will be kept for minimum of six years. All retention begins at the close of the financial year to which they relate.

3.4.5. Training

Clinical training records will be retained until the member of staff's 75th birthday or six years after the staff member leaves, whichever is the longer.

Statutory and mandatory training records will be kept for 10 years after the training has been completed.

Other training records will be kept for six years after the training is completed.

3.4.6. Occupational Health

Occupational Health Records will be held for a minimum of six years after employment has ended or until 75th birthday whichever is sooner (unless litigation ensues). Records containing information regarding clinical contact will be retained for 8 years after the conclusion of treatment. Records containing information regarding vaccination/immunisation will be retained for 10 years after the conclusion of treatment. Counselling records will be retained for seven years from the data of last seen.

Records where there is health surveillance assessments under Control of Substances Hazardous to Health (COSHH) or any other Health and Safety Executive (HSE) legislations for health surveillance, such as noise or hand-arm vibration syndrome, the medical records specific to relevant legislation will be kept for a minimum of 40 years and in line with the retention schedule set out within the HSE regulations. Records of staff working with ionising radiation will be kept for 50 years. Occupational health notes and any result that accompany these tests should be kept for the same period.

3.4.7. Subject Access Requests

All applications and responses will be retained by the appropriate Department for a period of 3 years from the closure of the request. If there is a subsequent appeal, the subject access paperwork will be kept for six years from the closure of the appeal.

3.5. Disclosure and Barring Service

The Trust uses the Disclosure and Barring Service (DBS) to help assess applicants' suitability for positions of trust in the organisation and complies fully with the Revised Code of Practice for Disclosure and Barring Service Register Persons regarding the correct handling, use, storage, retention and disposal of DBS disclosures and disclosure information.

The Trust also complies fully with its obligations under the Data Protection Act 2018, General Data Protection Regulation and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of DBS disclosures and disclosure information by following the procedure set out in Appendix B.

3.6. Subject Access Requests

Under data protection legislation employees can request a copy/access to information that is held about them in relation to their employment with the Trust. The request must be processed within one calendar month. This may be extended by two further months where necessary, taking into account the complexity and number of requests. Data subjects must be informed of any such extension within one month of receipt of the request, together with the reason for the delay. If the information requested is readily available, there is an expectation that the request will take no longer than 14 days to process.

A Datix will be completed for any requests missing the statutory deadline. The incident will be logged as an IG breach.

Staff wishing to access their information should submit the request by email, verbally or in writing to Human Resources, Mary Seacole Building, Willerby Hill, Willerby, HU10 6ED. The form in Appendix B can be used for this purpose.

Requests for Occupational Health Records should be submitted directly to Occupational Health.

Requests for employment records may also be submitted directly to the Information Governance Team, Mary Seacole Building, Willerby Hill, HU10 6ED.

Where the data subject makes the request by electronics means, the information shall be provided electronically, unless otherwise requested by the data subject.

When making a subject access request, the individual will be provided with a copy of the latest staff [Privacy Notice](#) informing them of:

- The purposes of the processing
- The categories of personal data concerned
- The recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations
- The retention period for which the personal data will be stored
- The existence of rights regarding rectification or erasure of personal data or restriction of processing of personal data
- The right to lodge a complaint with a supervisory authority
- Any details regarding the source of the personal data.
- The existence of automated decision making

3.6.1. Access

An appointment will be arranged for those wishing to look at their information. Please note that some form of photographic identification (e.g. passport, driving licence, employee identity badge) must be presented at the appointment.

A member of the Human Resources Department will be present whilst the file is accessed for the purposes of security and to answer any queries.

3.6.2. Copies

A fee will not be charged for copies provided.

A reasonable fee may be charged if further copies of the same information are requested or when a request is manifestly unfounded or excessive, particularly if it is repetitive. Any fee charged will be based on administrative cost only.

3.6.3. Exemptions

Information may be withheld in the following circumstances:

- The information identifies a third party and they have not consent to the disclosure. This does not include manager and supervisors employed by the Trust. In such cases, the Trust will supply as much information as possible without revealing the identity of the third party.
- The information is kept for management planning or forecasting and supplying it would prejudice the Trust's business.

3.6.4. Inaccurate information

If a staff member believes that information held about them is inaccurate or no longer relevant, this should be discussed with the relevant department. If it is mutually agreed that an amendment should be made, the staff member should be given a copy of the amended sections of information. If this is not the case, the staff member can ask the Trust to add a statement to their record indicating their own views about the disputed data.

4. EQUALITY AND DIVERSITY

An Equality and Diversity Impact Assessment has been carried out on this document using the Trust-approved EIA. The assessment indicates that there is little or no evidence/concern that the policy will have a differential impact on any of the equality target groups.

5. IMPLEMENTATION

This procedure will be disseminated by the method described in the Document Control Policy. This procedure does not require additional financial resource.

6. MONITORING AND AUDIT

Incidents in breach of this procedure will be reported via Datix and monitored by the Information Governance Group.

Compliance with this procedure for local supervision records will be monitored as part of the IG spot check audits.

Subject access requests will be monitored by the IG Group as part of the quarterly IG monitoring report.

7. REFERENCES/EVIDENCE/GLOSSARY/DEFINITIONS

Data Protection Act 2018
Records Management Code of Practice 2021
Nursing Midwifery Council (2021) Data Protection Policy–
UK General Data Protection Regulation

8. RELEVANT POLICIES/PROCEDURES/PROTOCOLS/GUIDELINES

- Confidentiality Code of Conduct Security
- Recruitment and Selection Policy and Procedure
- Safe Haven Procedure
- Staff Privacy Notice
- Supervision Policy – Clinical Practice and Non-Clinical

Appendix A: Description of employee records held by the trust

Personal employment record

| Subject | Document |
|---|--|
| Pre-employment details | Job description |
| | Person specification |
| | Authority to recruit |
| | Copy of job advertisement |
| | Job specifics (line manager details, location etc.) |
| | Application form |
| | Post holder's job interview notes |
| | Offer of employment |
| Personal details | Personal details |
| | Copy of identification |
| | Copies of qualification at time of appointment |
| | References |
| | Model Declaration Form, propriety checks, DBS certificate reference number |
| | Health self-certification and/or medical health check |
| | Membership of professional bodies at time of appointment |
| | |
| Contract of employment details | Signed copy of acceptance of offer |
| | Signed contract of employment |
| | Contractual Terms and Conditions Forms, e.g. flexible working request |
| | Authorisation to undertake additional work outside work hours |
| | Variation form |
| Induction/probationary information | Induction checklist |
| | Probationary extent period |
| | Probationary confirmation in post |
| | Probationary dismissal |
| | Probationary assessment forms |
| Health Information | Medical reports |
| | Occupational health letters |
| Disciplinary and misconduct details | Verbal warning letters |
| | Held in accordance with the Disciplinary Procedure |
| | Written warning(s) |
| | Disciplinary outcome |
| | Gross misconduct dismissal (letters, form, hearing records) |
| Employment termination details | Appeal (letters, forms, hearing records) |
| | Tribunal records (held separately) |
| | Correspondence relating to termination |
| | Leavers checklist |
| Leave entitlement and sickness details | Termination form |
| | Leavers checklist |
| | Termination form |
| | Staff returns detailing absences – sick, paid leave, unpaid leave etc. |
| | Medical certificates |
| Employment termination details | Termination form |

Payroll record

| Subject | Document |
|------------------------------|---|
| Personal details | Personal details form (address, contract number, emergency contact, National Insurance number, date of birth etc. |
| Contract of employment | P45 |
| | Relocation payment |
| Payroll and benefits details | Bank details |
| | Payroll reference number |
| | Authorisation to make deduction from pay |
| | Pension records |
| | Redundancy details |
| | Year-end payroll cumulative totals |
| Allowances and claims | Lease car forms |
| | Mileage, subsistence, expense forms etc. |
| | Overtime authorisation |

Training record

| Subject | Document |
|-------------------------------------|--|
| Personal details | Personal details – name, date of birth |
| Training and performance assessment | Training record |
| | External study leave forms |
| | Course details and copies of course certificates |
| | Leave request |

Occupational health record

| | |
|------------------|--|
| Personal details | Personal details – name, date of birth |
| Health | Medical appointments |
| | Medical reports |
| | Health surveillance |

Supervision record (clinical and managerial)

| Subject | Document |
|--------------------------|---|
| Personal details | Personal details – name, date of birth |
| Recruitment | Job Description |
| | Person Specification |
| | Recruitment correspondence* |
| Training and development | PDR documentation |
| | Records of one to one/supervision meetings |
| | Training history |
| | Training evaluation |
| | Study leave forms* |
| Health | Summary of absences |
| | Sickness self-certificates |
| | Medical certificates* |
| | Correspondence, e.g. Occupational Health letters* |
| Other | References given about the employee |
| | Annual leave records (retain for two years) |
| | Copy of correspondence* |

*These documents are duplicates of information held within a central trust record. This information should be retained for seven years in line with the supervision records retention period. As these documents are duplicates, the documents may be destroyed sooner if they are not required by the Manager/Supervisor. Such documents will be available from Human Resources for reference if necessary.

Appendix B:

Handling of DBS Certificate Information

STORAGE AND ACCESS

Certificate information should be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

HANDLING

In accordance with Section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom certificate or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

Organisations which are inspected by the Care Quality Commission (CQC) may be legally entitled to retain the certificate for the purposes of inspection.

In addition, organisations that require retention of certificates in order to demonstrate 'safer recruitment' practice for the purpose of safeguarding audits may be legally entitled to retain the certificate. This practice will need to be compliant with the Data Protection Act, Human Rights Act, General Data Protection Regulation (GDPR), and incorporated within the individual organisation's policy on the correct handling and safekeeping of DBS certificate information.

USAGE

Certificate information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

RETENTION

Once a recruitment (or other relevant) decision has been made, we do not keep certificate information for any longer than is necessary. This retention will allow for the consideration and resolution of any disputes or complaints, or be for the purpose of completing safeguarding audits. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

DISPOSAL

Once the retention period has elapsed, the Trust will ensure that any DBS certificate or certificate information is immediately destroyed by secure means, i.e. shredding, pulping or burning. Whilst awaiting destruction certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). Any certificate or certificate information will be kept in files in a secure, lockable cabinet.

The Trust will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, the Trust may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificate and the details of the recruitment decision taken.

ACTING AS AN UMBRELLA BODY

Where the Trust acts as an Umbrella Body (one which countersigns applications for DBS certificate and receives certificate information on behalf of other employers or recruiting organisations) the Trust will take all reasonable steps to satisfy themselves that other such organisations will handle, use, store, retain and dispose of DBS certificate information in full compliance with this procedure and the DBS Code of Practice (a copy of which can be found [here](#).)

The Trust will also ensure that anybody or individual at whose request applications for certificates are countersigned has such a written procedure and, if necessary, will provide a model policy for that body or individual to use or adapt for this purpose.

REFERENCE

Handling of DBS Certificate information www.gov.uk/government/publications/handling-of-dbs-certificate-information.

Appendix C: Access to Personal Employee Information Application Form



Humber Teaching
NHS Foundation Trust

APPLICATION FORM ACCESS TO PERSONAL EMPLOYEE INFORMATION

Please complete the below form in **BLOCK CAPITALS** to access personal information held about you during the course of your employment with the Trust. These details will be used to help find the information you require and to monitor compliance with data protection legislation. Once complete, please return to Human Resources Department, Mary Seacole Building, Willerby Hill, Willerby, HU10 6ED.

Please note that prior to accessing or being provided with copies of any information you will be required to supply some form of identification, e.g. passport, driving licence.

| | | |
|--|-------------|----------------|
| Surname | | |
| Forename(s) | | |
| Date of birth | | |
| Home address | | |
| Work base | | |
| Contact number | | |
| Description of information required | | |
| Type of access required (delete as appropriate) | VIEW RECORD | COPY OF RECORD |

DECLARATION

The information which I have supplied in this application is correct, and I am the person to whom it relates.

Signed

Date

OFFICIAL USE ONLY

| | |
|----------------------------------|--|
| Date application received | |
| Identification documents checked | |
| Date access/copy provided | |
| Signature and Date | |

Appendix D: Equality Impact Assessment (EIA)

For strategies, policies, procedures, processes, guidelines, protocols, tenders, services

1. Document or Process or Service Name: Data Protection Procedure for employment records
2. EIA Reviewer (name, job title, base and contact details): Karen Robinson, Information Governance Officer, Mary Seacole Building, Willerby Hill, Willerby. Tel. 01482 477856.
3. Is it a Policy, Strategy, Procedure, Process, Tender, Service or Other? Procedure

| Main Aims of the Document, Process or Service |
|---|
| <p>The document sets out:</p> <ul style="list-style-type: none"> • the types of employment records that will be held by the Trust • the documents that will kept in those records • the retention periods • responsibility for keeping the records secure • information on how a member of staff could obtains a copy of the record. |
| Please indicate in the table that follows whether the document or process has the potential to impact adversely, intentionally or unwittingly on the equality target groups contained in the pro forma |

| Equality Target Group | Is the document or process likely to have a potential or actual differential impact with regards to the equality target groups listed? | How have you arrived at the equality impact score? |
|---|---|--|
| 1. Age 2. Disability 3. Sex 4. Marriage/Civil Partnership 5. Pregnancy/Maternity 6. Race 7. Religion/Belief 8. Sexual Orientation 9. Gender Reassignment | Equality Impact Score Low = Little or No evidence or concern (Green) Medium = some evidence or concern (Amber) High = significant evidence or concern (Red) | a) who have you consulted with b) what have they said c) what information or data have you used d) where are the gaps in your analysis e) how will your document/process or service promote equality and diversity good practice |

| Equality Target Group | Definitions | Equality Impact Score | Evidence to support Equality Impact Score |
|-----------------------------------|---|-----------------------|--|
| Age | Including specific ages and age groups: Older people Young people Children Early years | Low | The requirements of this policy apply only to adults working for the Trust. |
| Disability | Where the impairment has a substantial and long term adverse effect on the ability of the person to carry out their day to day activities: Sensory Physical Learning Mental Health (including cancer, HIV, multiple sclerosis) | Low | The requirements of the policy apply equally to all staff employed by the Trust Adjustments can be made for those requiring assistance in applying for their record or a copy of their record in a different format. This may utilise adjustments previously made for the staff member's employment with the Trust. |
| Sex | Men/Male Women/Female | Low | The requirements of the policy apply equally to all staff employed by the Trust. |
| Marriage/Civil Partnership | | Low | The requirements of the policy apply equally to all staff employed by the Trust. |
| Pregnancy/ Maternity | | Low | The requirements of the policy apply equally to all staff |

| Equality Target Group | Definitions | Equality Impact Score | Evidence to support Equality Impact Score |
|----------------------------|---|-----------------------|---|
| | | | employed by the Trust equally. |
| Race | Colour Nationality Ethnic/national origins | Low | The requirements of the policy apply equally to all staff of any race. The Trust has access to interpretation services, if records are required in a different language. |
| Religion or Belief | All Religions Including lack of religion or belief and where belief includes any religious or philosophical belief | Low | The requirements of the policy apply equally to staff of any religion or belief. |
| Sexual Orientation | Lesbian Gay Men Bisexual | Low | The requirements of the policy apply equally to staff of any sexual orientation. |
| Gender Reassignment | Where people are proposing to undergo, or have undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attribute of sex | Low | The requirements of the policy apply equally to staff of any gender. |

Summary

| | |
|---|-----------------------|
| Please describe the main points/actions arising from your assessment that supports your decision above | |
| All the requirements apply equally to all staff working across the Trust. | |
| Adjustments can be made for staff who need assistance in applying for their record or require their record in a different format. | |
| EIA Reviewer: Karen Robinson | |
| Date completed; June 2022 | Signature: K Robinson |