**ISSA MEDICAL GROUP**

 **Main Site: Issa @ Deepdale**

**Branch Site: Issa @ Fulwood**

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**CALDICOTT AND CONFIDENTIALITY POLICY**

**CALDICOTT GUARDIAN Dr Z Patel**

# Introduction

## Policy statement

This policy explains and enforces the obligations of Caldicott, confidentiality and non-disclosure among the employees of Issa Medical. This applies to information generated, held and processed by the organisation. Furthermore, it outlines the principles that are to be adhered to by all staff at this organisation to understand the requirement for effective controls of personal confidential data (formerly patient identifiable information).

## Status

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the [Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/contents). Consideration has been given to the impact this policy might have with regard to the individual protected characteristics of those to whom it applies.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. Furthermore, this document applies to all employees of the organisation and other individuals performing functions in relation to the practice such as agency workers, locums and contractors.

# 2 Caldicott

## 2.1 Caldicott principles

The Caldicott Principles are as detailed within the NDG document titled [The Eight Caldicott Principles](https://www.gov.uk/government/publications/the-caldicott-principles).

## 2.2 Caldicott Guardian role

The [Manual for Caldicott Guardians](https://www.ukcgc.uk/caldicott-guardians-manual) details the role of the Caldicott Guardian whilst the NDG document [Guidance about the appointment of Caldicott Guardians, their role and responsibilities](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1013756/Caldicott_Guardian_guidance_v1.0_27.08.21.pdf) provides additional information. Caldicott Guardians may also seek guidance from the [UK Caldicott Guardian Council](https://www.gov.uk/government/groups/uk-caldicott-guardian-council) (UKCGC).

## 2.3 Caldicott Guardian and/or Information Governance Lead

This organisation is required to have its own Caldicott Guardian and this is normally a senior clinician. This role is also given an additional title of Information Governance (or IG) Lead. Should a non-clinical person be appointed as the Caldicott Guardian, they should be supported by an appropriate clinician.

All staff are to be aware of who the Caldicott Guardian/Information Governance lead is. Furthermore, the details of this organisation’s Caldicott Guardian are to be recorded on the [Caldicott Guardian Register](https://digital.nhs.uk/services/organisation-data-service/update-your-data/registers) and must be kept up to date at all times.

# Confidentiality

## 3.1 Requirement

The [NHS Confidentiality Policy](https://www.england.nhs.uk/wp-content/uploads/2019/10/confidentiality-policy-v5.1.pdf) and the [NHS Confidentiality Code of Practice](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/200146/Confidentiality_-_NHS_Code_of_Practice.pdf) state that all staff working in the NHS are bound by a legal duty of confidence to protect personal information they may encounter during their work. This is not purely a requirement of their contractual responsibilities; it is also a requirement within the common law duty of confidence.

## NHS Confidential Code of Practice

All staff are to adhere to the principles of confidentiality outlined in the [NHS Confidentiality Code of Practice](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200146/Confidentiality_-_NHS_Code_of_Practice.pdf):

* Person-identifiable or confidential information must be effectively protected against improper disclosure when it is received, stored, transmitted or disposed of
* Access to person-identifiable or confidential information must be on a need-to-know basis
* Disclosure of person-identifiable or confidential information must be limited to the purpose for which it is required
* Recipients of disclosed information must respect that it is given to them in confidence
* If the decision is taken to disclose information, that decision must be justified and documented
* Any concerns about the disclosure of information must be discussed with a line manager
* Patients are to be informed of the intended use of their information

This organisation will ensure that the requirements within the above Code of Practice are strictly followed, and that staff will immediately report any breaches of confidence or potential risks to the Caldicott Guardian/ IG Lead.

## Non-disclosure of information

All employees must adhere to practice policies and the clauses outlined in their individual contract of employment in relation to confidentiality, data protection and intellectual property.

## Breach of Confidential Information

Any breach of confidentiality will be managed in accordance with the organisation’s Information Governance Breach Reporting Policy.

## Third-party requests for information

Any employee approached by a third party, including any media source, and asked to make comments or provide information relating to the organisation and its affairs (or the affairs of its patients, partners, employees, contractors or any business associate) must not, under any circumstances, respond without having sought permission and guidance from Mrs S Riley Senior Practice Manager.

The manager will then discuss the request with the partners and consider asking for assistance from the press information/media officer at the ICB.

## Whistleblowing or protected disclosures

In respect of any malpractice or unlawful conduct, any employee is entitled to submit a protected disclosure under the organisation’s Freedom to Speak Up Policy.

Further guidance can be sought from the NHS E document [Freedom to Speak Up](https://www.england.nhs.uk/ourwork/freedom-to-speak-up/).

## Disclosing Information

The GMC offers guidance in the document titled [Disclosing patients’ personal information: a framework](https://www.gmc-uk.org/professional-standards/professional-standards-for-doctors/confidentiality/disclosing-patients-personal-information-a-framework). Supporting information can also be found in Consent Policy.

**3.8 Protected information under the Gender Recognition Act**

[Section 22](https://www.legislation.gov.uk/ukpga/2004/7/section/22) of the [Gender Recognition Act 2004](https://www.legislation.gov.uk/ukpga/2004/7/contents) states that it is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person.

This is classified as *protected information* and is defined in Section 22(2) as information relating to a person who has applied for a [Gender Recognition Certificate](https://www.gov.uk/apply-gender-recognition-certificate) (GRC) under the Act, and which concerns that application (or a subsequent application by them), or their gender prior to being granted a full GRC.

While Section 22 is a privacy measure that prevents officials from disclosing that a person has a trans history, there are exemptions for medical professionals as detailed within [Statutory Instrument 2005 No.635 (Section 5)](https://www.legislation.gov.uk/uksi/2005/635/article/5/made) provided all the following circumstances apply:

* The disclosure is made to a health professional
* The disclosure is made for medical purposes; and
* The person making the disclosure reasonably believes that the subject has given consent to the disclosure or cannot give such consent

As a precautionary measure, it is good practice to apply the Section 5 criteria to all disclosures of information about the trans status of a patient. Furthermore, patients should never be asked to produce a GRC to ‘prove’ their trans status.

## 3.9 Confidentiality and non-disclosure agreement

All persons engaged to work for and on behalf of the organisation will be required to sign the confidentiality agreement which is found on Clarity. A signed copy will be held on the individual’s personnel file.

Visitors to the organisation will also be expected to sign a third party confidentiality agreement which can be found on Clarity.

## 3.10 National data opt-out

The national data opt-out or (NDO-O) is a service that allows patients to opt out of their confidential patient information being used for research and planning. Additional information can be found in the [National data opt-out](https://digital.nhs.uk/services/national-data-opt-out) guidance.

## 3.11 Abuse of privilege

As detailed in the [NHS Confidentiality Policy](https://www.england.nhs.uk/wp-content/uploads/2019/10/confidentiality-policy-v5.1.pdf), it is strictly forbidden for employees to knowingly browse, search for or look at any personal or confidential information relating to themselves, their own family, friends or other persons without a legitimate purpose. Action of this kind will be viewed as a breach of confidentiality and of the Data Protection Act 2018, and disciplinary action may be taken.

## 3.12 Privacy Notices

The practice privacy notice explains to patients the ways in which the organisation gathers, uses, discloses and manages a patient’s data. It fulfils a legal requirement to protect a patient’s privacy. Other privacy notices are provided and can be found on TeamNet.

# Compliance

## Good practice

To support the [NHS Code of Practice](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200146/Confidentiality_-_NHS_Code_of_Practice.pdf), the following actions will be undertaken:

* Person-identifiable information will be anonymised so far as is reasonably practicable, while being mindful of not compromising the data
* Access to consulting rooms, administrative areas and record storage areas will be restricted
* All staff should always maintain a clear desk routine. No patient confidential information is to be left unattended in any unsecured area, at any time
* All IT equipment is to be shut down at the end of the working day except any that is required to remain left such as server equipment
* Smartcards are to be removed from the computer whenever the user leaves their workstation as per the Smartcard Policy
* Confidential waste is shredded or disposed of appropriately and as per the Confidential Waste Policy
* Staff will not talk about patients or discuss confidential information in areas where they may be overheard

## Audit

Regular audits must be undertaken to ensure access to confidential information is gained only by those who are required to access it in the course of their normal duties.

At this organisation, management receive notification when staff members have been in restricted patient records. Restricted patients include family members of staff or staff themselves. Management will review the notification and take action accordingly.

##  Additional Compliance Tools

In addition to audit, there are further tools that can be used to support such as:

* All members of the organisation will undergo annual confidentiality training
* A confidentiality quiz detailing different scenarios is available at Annex A

# Annex A – Confidentiality quiz

**Scenario 1:**

A male patient finishes his consultation with the ANP and, as he is leaving, he asks the reception team if it is OK for him to pick up his 16-year-old daughter’s prescription.

How do you respond?

Could there be any medication that the daughter may not want her father to see?

You are not permitted to let the patient collect his daughter’s prescription without her explicit consent. You have a duty to protect confidential information.

There may be contraception medication that the daughter does not want her father to know about.

**Scenario 2:**

A 15-year-old girl has attended a GP appointment for a review of her asthma. During the consultation she asks the GP for advice about oral contraception and, when questioned about sexual activity, she advises that she is sexually active but has not told her Mum or Dad.

Can the GP breach her confidence and, if so, why?

Yes, on child protection/safeguarding grounds. However, if the GP deems the patient has shown maturity and fully understands the consequences of her request and subsequent actions, her confidence should be upheld.

**Scenario 3:**

You work in a rural practice, and it is a very close-knit community with everyone helping one another. You notice your neighbour in the waiting room and after his appointment he appears upset and leaves without saying anything.

Can you check his clinical record to see if there is anything you can do to help?

No, as you have no legitimate purpose for doing so. If you were to search their record this would constitute a breach of confidentiality and a breach of the [Data Protection Act 2018](https://www.legislation.gov.uk/ukpga/2018/12/contents/enacted).

**Scenario 4:**

You have arranged for a patient to collect a printed copy of their medical notes for an insurance matter. You are off to lunch in five minutes and decide to leave the notes (not in an envelope) on the reception desk.

Is this appropriate?

No, you are failing to protect against improper disclosure and this goes against the [NHS Code of Practice 2003](https://www.gov.uk/government/publications/confidentiality-nhs-code-of-practice). Leaving the notes in such a position means they would be visible to other staff members and patients. You must never leave patient confidential information in an unsecured area at any time.

**Scenario 5:**

A male patient aged 14 attends the practice and asks for a copy of his medical records.

How do you respond?

Patients under the age of 16 are entitled to see or be given a copy of their records if they have the competence to understand the nature of the request. However, they need to be deemed Gillick competent and, as such, need to be assessed by a healthcare professional before being given a copy of their notes.

**Scenario 6:**

You are handing over to your colleague at reception who is covering your lunch break. You tell them that earlier in the morning you were advised that a patient who had been with the practice for 55 years had passed away.

You wanted to let them know as you knew they had known the patient for a long time.

Is it OK to do so?

Staff do need to know of deceased patients as this prevents unnecessary phone calls being made or letters being sent thereby causing further upset to the family of the deceased. However, staff must not talk about patients or confidential information in areas where they may be overheard.

**Scenario 7:**

You answer the phone, and the caller asks for the results of their latest cholesterol test.

What do you need to do?

You should ask the patient to confirm their name, address and date of birth. You can also ask them when they had the test done. Additionally, you could ask further questions to confirm the ID of the caller such as when they were last in the practice before their blood test appointment.

This helps you to ascertain whether it is the patient calling or if it is someone else. If there is any doubt, tell the caller you will ring them back.

**Scenario 8:**

Your practice is holding a group consultation for diabetic patients, and this is the first group consultation at your practice. The ANP calls from the meeting room upstairs and asks you to send the six patients who are waiting.

How do you do this?

All six patients would have consented to attend a group consultation but there will be other patients in the waiting room, and you need to protect the confidentiality of the patients. So, rather than saying ‘those who are here for the diabetic clinic, please proceed to the meeting room’, you could say, ‘all patients here for the group consultation, please proceed to the meeting room’.

You have called no names out nor disclosed what the group consultation is about and have therefore maintained confidentiality so far as is reasonably practicable.

**Scenario 9:**

You take a call from patient who wants to confirm their appointment with the visiting mental health nurse, but it is a bad line.

What do you do?

Option A: Try to confirm the patient’s details including name, date of birth, address and who their appointment is with by repeating this information to the patient.

Option B: Advise the patient that they need to call back as you are unable to hear them.

Option B – If you were to repeat everything, all the patients in the waiting area may hear you and they would know the patient’s personal details and that they had mental health issues.

**Scenario 10**

The father of an eight-year-old patient pops into the practice and asks for a copy of the child’s vaccination record as they are going travelling for a month in the summer. You know the parents are divorced and the child lives with Mum.

Can you give Dad a copy of the vaccination record?

Parents do not lose parental responsibility if they divorce or separate and you should allow both parents reasonable access to their children’s health records. The practice does not have to seek consent from the other parent, nor tell the other parent that they have received the request.

NB – Parental responsibility can be restricted by the courts.