Policy Title and ID number:	**CONFIDENTIALITY POLICY GEN 6.71**			
Sponsoring Director:	**Director of Quality, Performance & Governance**			
Implementation Lead:	**Information Governance Manager**			
Impact:	*(a) To patients*	**No**		
	(b) To Staff	**Yes**		
	(c) Financial	**No**		
	(d) Equality Impact Assessment (EIA)	Completed: **Yes**		
	(e) Counter Fraud assessed	Completed: **Yes**		
	(e) Other			
Training implications:	*To be incorporated into induction:* **No**			
Date of consultation:	***Approval Process***	**Date**	**Local Consultation**	**Date**
	Executive Team		*Joint Partnership Forum*	*Feb 2012*
	Board Committee:	*23.02.12*	*Local Negotiating Committee*	
	• *Clinical Governance*		*Infection Control Committee:*	
	• *Non Clinical Governance & Risk*	*Feb 2012*	*Health & Safety Committee*	
	• *Audit Committee*		*Quality Safety Improvements & Effectiveness Board*	
	• *Finance Committee*			
	• *RATS*		*Investment Board*	
	Trust Board Approval / Ratification	*23.02.12*	*Patients Experience Board*	
	Other: IGG virtual	*Jan 2012*	*Other:*	

Approval/Ratification at Trust Board:	*February 2012*	Version Number:	2
Date on Policy Warehouse:	*February 2012*	Team Brief Date:	March 2012
Circulation Date:	March 2012	Date of next review:	January 2014

For completion by ET for *new* policies only:				
Additional Costs			Budget Code:	Revenue or Non Revenue
	(a) Training	£		
	(b) Implementation	£		
	(c) Capital	£		
	(d) Other	£		

Contents

1 Introduction

1.1 A duty of confidentiality arises when one person discloses information to another in circumstances where it is reasonable to expect that information will be held in confidence (e.g. patient to clinician, commercial in confidence information disclosed in contract negotiations).

1.2 The purpose of this policy is to set out confidentiality requirements and consequent duties and provide a framework for Barnsley Hospital NHS Foundation Trust (BHNFT) to ensure compliance with all relevant legal obligations, standards and guidelines and professional codes of conduct.

1.3 The confidentiality of personal information of staff and patients will be achieved by the formal adoption of the DH publication 'Confidentiality: NHS Code of Practice' as the authoritative reference to be included in the BHNFT Confidentiality Policy and implemented throughout the Trust.

1.4 The confidentiality of non-personal information will be achieved by the implementation of relevant Trust policies (as detailed in Section 10).

2 Purpose

2.1 This policy sets out Barnsley Hospital NHS Foundation Trusts (BHNFT) commitment to the confidentiality of information relating to patients, service users and all staff including volunteers, contractors and agency workers and its responsibilities with regard to the disclosure of such information.

2.2 All employees working in the NHS are bound by a legal duty of confidence to protect personal information they may come into contact with during the course of their work.

2.3 The policy is also to protect staff by making them aware of the correct procedures for maintaining confidentiality of patient information so that they do not inadvertently breach any requirements of law or good practice.

2.4 The legal and best practice guidance informing the development of this policy includes:

- Common Law Duty of Confidence
- All contracts of employment with the Trust
- Data Protection Act 1998
- Human Rights Act 1998
- Computer Misuse Act 1990
- Caldicott Report 1997
- NHS Confidentiality Code of Practice
- Codes of Conduct for all Health Professionals
- Under the Data Protection Act the Trust has to ensure that the appropriate security measures are in place to safeguard patient information.

2.5 The Trust is held accountable, through clinical and information governance frameworks, specifically the Information Governance Toolkit, for continuously improving confidentiality and security procedures governing access to and storage of personal information.

3 Scope

3.1 This policy applies to all employees of the Trust, in all locations, including the Non-Executive Directors, temporary employees, locums and contracted staff.

4 Responsibilities

4.1 Chief Executive

The Chief Executive has overall responsibility to ensure that the Trust complies with all legal obligations, relevant legislation, standards and guidelines and to sign off of the Annual Information Governance Toolkit Assessment.

4.2 **Caldicott Guardian.** The Caldicott Guardian's role is to:

4.2.1 Actively support work to facilitate and enable information sharing and to advise on options for lawful and ethical processing of patient identifiable information.

4.2.2 Represent and champion Information Governance (IG) requirements and issues at Board/management team level.

4.3 **Director of Quality and Performance** Is responsible for:

4.3.1 Overseeing the Trust's Information Governance work programme.

4.3.2 Ensuring this policy and all Information Governance policies are maintained and made available to staff.

4.3.3 Reviewing the management and accountability for Information Governance.

4.3.4 Obtaining Board approval for and implement any measures required to strengthen Information Governance arrangements.

4.3.5 Ensuring the Board is adequately briefed on Information Governance issues and the broader Information Governance agenda.

4.4 Directors, Senior and Line Managers

Directors and Senior and Line Managers are responsible for ensuring that all staff are aware of and understand their obligations and duties in line with this policy and the Confidentiality: NHS Code of Practice.

4.5 Information Asset Owner

Information Asset Owners are responsible for ensuring that access to electronic and manual confidential information is strictly controlled within their system. They will be responsible for monitoring access attempts in order to highlight potential areas for concern, for example regular access attempts by the same individual. They will be responsible for ensuring that confidentiality audits and subsequent recommendations are complied with within specified timescales.

4.6 BHNFT Employees

Employees are responsible for:

4.6.1 Ensuring that they understand and comply with their duties and responsibilities.

4.6.2 Reporting breaches of confidentiality and security weaknesses in accordance with the Trusts internal Incident Reporting procedure.

4.6.3 Attending training and awareness sessions provided by the Trust.

5 Actions

5.1 As it is impractical to obtain consent every time information needs to be shared, patients must be informed and understand that some information may be made available to other members of the team involved in the delivery of their care.

5.2 Disclosure of information outside the team that will have personal consequences for patients must be with the consent of the patient.

5.3 If the patient withholds consent, or if consent cannot be obtained for whatever reason, disclosures may be made only where:

- They can be justified in the public interest (usually where disclosure is essential to protect the patient or client or someone else from risk of significant harm)
- They are required to by law or by order of a court

- Where there is an issue of child protection; in this case local polices should be consulted for further details

5.4 Further details of these exceptional cases and appropriate justification for disclosing information without consent are set out in the Trust's Data Protection policy.

5.4 The Trust will allow the use of patient information without consent for medical research, keeping registers of cancer patients, or checking quality of care (clinical audit), in line with the permissions granted by the independent, national Ethics and Confidentiality Committee (ECC).

5.5 If you have any concerns about disclosing or sharing personal information you must discuss them with your line manager. If they are unavailable consult Information Governance or the Caldicott Guardian.

6 Application of the Code of Confidentiality

6.1 General guidance for all persons listed in the scope of this policy is contained in the Confidentiality NHS Code of Practice (as may be updated) which is available on the Trust Intranet at:
http://bdghnet/Departments/InfGov/5667.html

6.2 In order to comply with relevant legislation and professional guidelines and ethics, the Trust will formally adopt the 'Confidentiality NHS Code of Practice' as standard for implementation throughout the Trust.

6.3 Specific guidance will be published as written procedures published by directorates and departments and made available via the Trust intranet so all relevant staff are effectively informed. Principles of confidentiality are to be communicated to staff via induction and mandatory training.

7 Keeping Patients Informed

7.1 The Trust will ensure that patients are informed of the proposed uses of their personal information through patient information booklets, patient awareness sessions and external communications (e.g. external website)

The Trust will ensure that patients and public are informed of the importance of providing good Data Quality standards through the Data Quality policy and mandatory training

7.1.1 The Trust will regularly:

- review the use of patient information
- ensure that all new uses of information are brought to the attention of affected patients
- update communications materials if necessary

7.2 Handling Requests

7.2.1 The Trust (as Data Controller) will ensure that an appropriate data subject access procedure is established and operated. Monitoring procedures will also be maintained to ensure continuing compliance with the Act.

8 Training and Awareness

8.1 Information on confidentiality, points of contact for advice and training will be included in the Trusts Induction Booklet and Corporate Induction presentation.

8.2 Staff will be made aware of this policy via line management.

8.3 The confidentiality policy and NHS Code of Practice will be available to all staff via the Trust Intranet. http://bdghnet/Departments/InfGov/5667.html

8.4 References to this policy will be included in mandatory and induction training sessions, and form the basis of IG principles for related education and training sessions.

9 Equality and Diversity

9.1 The Trust recognises the diversity of the local community and those in its employment. Our aim therefore is to provide a safe environment free from discrimination and a place where all individuals are treated fairly, with dignity and appropriately to their need. All policies and procedures are assessed in accordance with the Equality & Diversity Assessment procedure, the results for which are monitored centrally.

10 Related Policies and Guidance

All Information Governance Policies and associated policies such as Health Records is accessible to all staff via the Trusts Policy Warehouse: http://systems/pt/default.aspx

11 Review

11.1 This policy will be reviewed bi-annually. Earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

12 Monitoring

12.1 Breaches in confidentiality will be reported via the Trust's incident reporting mechanisms and may be subject to investigation.

12.2 The Information Assurance Group will develop a routine audit programme to monitor the adequacy of systems and policies and provide reports to the IG Steering Group.

13 Disciplinary Procedures

13.1 Any breach of or refusal to comply with this policy is a disciplinary offence which may lead to disciplinary action in accordance with the Trust Disciplinary Policy, up to and including, in appropriate circumstances, dismissal without notice.