

## **What we do with your information**

National Services Division (NSD) is a strategic business directorate within The Common Services Agency, more commonly referred to as NHS National Services Scotland or NSS (NHS NSS). NSD will strive to be the leading provider of clinical, professional and assurance services, through the provision of expertise and collaboration working, enabling, and supporting 'Scotland's Health'.

NSD is committed to protecting and respecting the privacy of individuals whose personal information is held and used by NSD and to complying with its obligations under the Data Protection Act 2018 (DPA 2018) and the UK GDPR.

This privacy statement explains:

- the types of personal information that NSD collects and processes in relation to its function (being the provision of legal advice)
- how NSD obtains and uses such personal information
- when NSD may disclose such personal information to third parties. It also provides further information on your rights

## **Our legal basis for using personal information**

Under data protection law, we have responsibilities as a 'data controller'. A data controller decides why and how we use personal information. This means that we need to have a legal basis when using personal information.

We consider that the tasks and functions we perform are in the public interest. This means that our legal basis for using personal information is usually that the information is needed for performing a task we're carrying out in the public interest, or exercising official authority vested in us.

In some situations, we may rely on a different legal basis – for example, our legal basis for using personal information to pay a supplier is that the information is needed for the purposes of our legitimate interests as a buyer of goods and services.

Our legal basis when we are using more sensitive types of personal information, including health information, is usually that the use is necessary:

- for providing health or social care or treatment or managing health or social care systems and services
- for reasons of public interest in the area of public health
- for reasons of substantial public interest for aims that are proportionate and respect people's rights
- for archiving, scientific, or historical research, or statistical purposes - as long as appropriate safeguards are in place
- in order to protect the vital interests of an individual
- for establishing, exercising, or defending legal claims or in the case of a court order

On rare occasions we may rely on your explicit consent as our legal basis for using your personal information. When we do this, we will explain what it means, and the rights that are available to you.

## **Types of Data**

### **Physical and mental health information comprised in an individual's medical record**

#### **Collection of data**

- such information may be provided to NSD by a client (For example: a Health Board) in connection with a particular matter on which NSD is advising
- such information may also be provided by the legal advisors appointed by the individual to whom the information relates, in order that the individual's claim, complaint or question can be adequately and appropriately investigated and responded to
- such information may also be provided by witnesses of an event or of a course of behaviour and so on, in connection with a particular matter on which NSD is advising.

#### **Use of Data**

- such information is used, to the extent necessary, to provide the legal advice and assistance that has been sought by the client
- such information will also be used to the extent necessary to comply with NSD's statutory and regulatory obligations.

#### **Our disclosure**

NSD may disclose personal information that it holds to the following parties, in each case where NSD is required to do so in connection with a particular matter in respect of which NSD is advising:

- its client, where additional personal information, unknown to the client, has been provided to NSD by the legal advisors appointed by the individual to whom the information relates
- counsel (that is a member of the Faculty of Advocates who is engaged to provide independent, expert legal advice), where counsel has been engaged by NSD
- the court or tribunal, whichever is relevant
- the procurator fiscal
- the Scottish Legal Aid Board
- the Compensation Recovery Unit
- the legal advisers appointed by the individual to whom the information relates
- the legal advisers of any co-defenders to any action in respect of which NSD is advising
- expert witnesses, where expert witnesses have been engaged by NSD, to allow the expert witnesses to provide their statement and, or testimony
- factual witnesses, where such witnesses have witnessed an event or a course of behaviour and so on, but such disclosure will be limited to that required to allow the factual witnesses to provide their statement and, or testimony
- law accountants in order to allow them to carry out an assessment of costs
- Auditor of the Court of Session in order to allow him to carry out an assessment of costs.

NSD may also disclose personal information that it holds to the following parties, for the following specified purposes:

- the Scottish Government or other relevant body, where this is required in connection with any fatal accident inquiry, public inquiry, or other statutory inquiry
- relevant professional regulatory bodies, such as the General Medical Council, the General Dental Council, the Nursing and Midwifery Council and so on, where this is required in order to comply with any statutory or regulatory obligation
- the police, upon receipt of a valid request and were permitted under the UK GDPR and the DPA 2018
- external auditors where required in connection with any audit of NSD activities
- service providers to NSD, for example: IT providers, but such disclosure will be limited to that required for providing the relevant service and will only be affected with service providers who have entered into a contract with NSS in which robust data protection obligations and protections are contained.

**Information relating to an employee (former or current) or to a claimant, comprised in an employee's or claimant's employment or HR record**

**Collection of data**

- such information may be provided to NSD by a client (For example: a Health Board) in connection with a particular employment or civil litigation matter on which NSD is advising
- such information may also be provided by the legal advisors or union representatives appointed by the individual to whom the information relates, in order that the individual's claim, employment claim, disciplinary action, complaint or question can be adequately and appropriately investigated and responded to
- such information may also be provided by witnesses of an event or of a course of behaviour and so on, in connection with a particular matter on which NSD is advising.

**Use of data**

- such information is used, to the extent necessary, to provide the legal advice and assistance that has been sought by the client
- such information will also be used to the extent necessary to comply with NSD's statutory and regulatory obligations.

**Our Disclosure**

NSD may disclose personal information that it holds to the following parties, in each case where NSD is required to do so in connection with a particular matter in respect of which NSD is advising:

- its client, where additional personal information, unknown to the client, has been provided to NSD by the legal advisors or union representatives appointed by the individual to whom the information relates
- counsel (that is a member of the Faculty of Advocates who is engaged to provide independent, expert legal advice), where counsel has been engaged by NSD, the court or tribunal, whichever is relevant
- the procurator fiscal
- the Scottish Legal Aid Board
- the Compensation Recovery Unit
- the legal advisers appointed by the individual to whom the information relates
- the legal advisers of any co-defenders to any action in respect of which NSD is advising

- expert witnesses, where expert witnesses have been engaged by NSD to allow the expert witnesses to provide their statement and, or testimony
- factual witnesses, where such witnesses have witnessed an event or a course of behaviour and so on, but such disclosure will be limited to that required to allow the factual witnesses to provide their statement and, or testimony
- professional mediators and, or the Advisory, Conciliation and Arbitration Service (ACAS)
- Law Accountants in order to allow them to carry out an assessment of costs
- Auditor of the Court of Session in order to allow him to carry out an assessment of costs.

NSD may also disclose personal information that it holds to the following parties, for the following specified purposes:

- the Scottish Government or other relevant body, where this is required in connection with any fatal accident inquiry, public inquiry or other statutory inquiry
- relevant professional regulatory bodies, such as the General Medical Council, the General Dental Council, the Nursing and Midwifery Council and so on, where this is required in order to comply with any statutory or regulatory obligation
- the police, upon receipt of a valid request and were permitted under the UK GDPR and the DPA 2018
- external auditors where required in connection with any audit of NSD activities
- service providers to NSD, for example: IT providers, but such disclosure will be limited to that required for providing the relevant service and will only be affected with service providers who have entered into a contract with NHS NSS in which robust data protection obligations and protections are contained

### **Address and relevant financial information relating to property or property-related transactions in respect of which an individual is a party**

#### **Collection of data**

• Such information may be provided to NSD by a client (For example: a Health Board), or by other professional advisors or service providers appointed by a client, in connection with a particular property or property-related transaction on which NSD is advising. • Such information may also be provided by the legal and, or other professional advisors appointed by the individual to whom the information relates, in order that the property or property-related transaction with which the individual is connected can be actioned.

#### **Use of data**

- such information is used, to the extent necessary, to provide the legal advice and assistance that has been sought by the client
- such information will also be used to the extent necessary to comply with NSD's statutory and regulatory obligations.

#### **Our disclosure**

NSD may disclose personal information that it holds to the following parties, in each case where NSD is required to do so in connection with a particular matter in respect of which NSD is advising:

- its client or its client's other professional advisors and service providers, where additional personal information, unknown to the client, has been provided to NSD by the legal appointed by the individual to whom the information relates
- the legal advisers and, or other professional advisers appointed by the individual to whom the information relates
- Scottish Government for reporting and, or authorisation purposes
- public registers, such as the Land Register, Sasine Register or Books of Council and Session, where registration of deeds in connection with the relevant property transaction is required or appropriate
- public authorities, where change of property ownership information requires to be provided
- law accountants in order to allow them to carry out an assessment of costs
- Auditor of the Court of Session in order to allow him to carry out an assessment of costs.

NSD may also disclose personal information that it holds to the following parties, for the following specified purposes:

- external auditors where required in connection with any audit of NSD activities
- service providers to NSD, for example: IT providers, but such disclosure will be limited to that required for providing the relevant service and will only be affected with service providers who have entered into a contract with NHS NSS in which robust data protection obligations and protections are contained.

### **Information relating to potentially fraudulent or criminal activity in which an individual has been engaged or of which an individual has had knowledge**

#### **Collection of data**

- such information may be provided to NSD by a client (For example: a Health Board or Practitioner and Counter Fraud Services, a strategic business unit within NHS NSS) in connection with a particular matter on which NSD is advising.

#### **Use of data**

- such information is used, to the extent necessary, to provide the legal advice and assistance that has been sought by the client
- such information will also be used to the extent necessary to comply with NSD's statutory and regulatory obligations.

#### **Our disclosure**

NSD may disclose personal information that it holds to the following parties, in each case where NSD is required to do so in connection with a particular matter in respect of which NSD is advising:

- its client, where additional personal information, unknown to the client, has been provided to NSD by the legal advisors appointed by the individual to whom the information relates
- counsel (that is a member of the Faculty of Advocates who is engaged to provide independent, expert legal advice), where counsel has been engaged by NSD
- the court or tribunal, whichever is relevant

- the legal advisers appointed by the individual to whom the information relates
- the procurator fiscal
- factual witnesses, where such witnesses have witnessed an event or a course of behaviour and so on, but such disclosure will be limited to that required to allow the factual witnesses to provide their statement and, or testimony.

NSD may also disclose personal information that it holds to the following parties, for the following specified purposes:

the police, for the purposes of reporting potentially fraudulent or criminal activity.

- relevant professional regulatory bodies, such as the General Medical Council, the General Dental Council, the Nursing and Midwifery Council and so on, where this is required in order to comply with client instructions
- service providers to NSD, for example: IT providers, but such disclosure will be limited to that required for providing the relevant service and will only be affected with service providers who have entered into a contract with NHS NSS in which robust data protection obligations and protections are contained.

### **How long we retain the information for**

Please refer to the NSS [Data Protection page](#) for details on retention.

### **Your rights**

Please refer to the NSS [Data Protection page](#) for details.

### **Contacting the data protection officer**

Please refer to the NSS [Data Protection page](#) for details.

### **How do I complain**

Please refer to the NSS [Data Protection page](#) for details.