

**PROTOCOL GOVERNING THE RECEIPT
AND DISCLOSURE OF PATIENT INFORMATION
FOR CHILD PROTECTION AND CHILD WELFARE
IN TAYSIDE**



ACKNOWLEDGEMENTS

This protocol was drawn up by a multi-agency group comprising staff from the health service across Tayside and from Angus, Dundee and Perth and Kinross local authorities. Tayside Police also participated in the process.

We are indebted to the staff listed below for their collaboration and contribution to this initiative.

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CONTENTS

	Page	
1	Introduction	1
	• Definition	1
	• Legislative/procedural basis	1
	• Principles	2
	• Purpose	3
2	Objectives	3
3	General Principles	4
4	Agreed Parameters	5
5	Access & Security	5
6	Transmission of Information	6
7	Restriction on Use of Information Provided	6
8	Responsibility for the Management of the Protocol	6
Appendix I	Principles of Caldicott Guardian process Caldicott Guardians in Tayside	
Appendix II	Contact details regarding: - Missing family alerts - Unborn baby alerts - Child protection register keepers	
Appendix III	Senior Officers	
Appendix IV	NHS Guidance on Use of FAX Machines	

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1 INTRODUCTION

1.1 Definition

This document is a protocol to enable the appropriate sharing of person identifiable information between the health service and their partner organisations when concerned with child protection and child health and welfare.

The health service acknowledges that there are legal and procedural duties to disclose personal information / data to other Agencies under certain circumstances.
(see below)

1.2 Legislative/Procedural Basis

This protocol has been drawn up taking into account the following legislation and guidance documents.

Legislation

- The Children (Scotland) Act 1995
- The Data Protection Act 1998
- Age of Legal Capacity Act (Scotland) 1991
- The European Convention of Human Rights (ECHR)
- Scots Common Law (Confidentiality)
- The United Nation Convention on Rights of the Child, 1989

Guidance

- Protecting Children/A Shared Responsibility (Interagency Guidance), 1998
- Protecting Children/A Shared Responsibility Guidance for Health Professionals, 2000
- General Medical Council Guidance on Confidentiality, 2000
- UKCC Code of Professional Conduct 1992
- UKCC Guidelines for Professional Practice 1996
- Interagency Guidelines for Child Protection: Angus, Dundee, Perth and Kinross
- Protecting and Using Patient Information: A Manual for Caldicott Guardians 2000.

1.3 Principles

The principles underpinning this protocol document are:

- i) "The Child's welfare is to be the paramount consideration"
The Children (Scotland) Act, 1995. Sections 11,16,17, 95
- ii) "If you believe a patient to be a victim of neglect or physical, sexual or emotional abuse and that the patient cannot give or withhold consent to disclosure, you should give information promptly to an appropriate responsible person or statutory agency, where you believe that the disclosure is in the patient's best interests. You should usually inform the patient that you intend to disclose the information before doing so. Such circumstances may arise in relation to children where concerns about possible abuse need to be shared with other agencies such as social services. Where appropriate you should inform those with parental responsibility about the disclosure. If, for any reason, you believe that disclosure information is not in the best interests of an abused or neglected patient, you must still be prepared to justify your decision."
General Medical Council Guidance on Confidentiality, 2000. Protecting and Providing Information. p 7
- iii) "A person under the age of 16 years shall have legal capacity to consent on his own behalf to any surgical, medical or dental procedure or treatment where in the opinion of a qualified medical practitioner attending him, he is capable of understanding the nature and possible consequences of the procedure or treatment"
Age of Legal Capacity (Scotland) 1991. Section 2 (4)
- iv) Under Scots Law the 16 year old is treated as a full adult
Age of Legal Capacity (Scotland) 1991. Section 1 (1) (b)
- v) "If a doctor has reasons for believing that a child is being physically or sexually abused not only is it permissible for the doctor to disclose information to a third party but it is a duty of the doctor to do so" - GMC, Nov 1997
Angus Child Protection Committee: Inter-Agency Guidelines for Professional Staff
- vi) "Confidentiality should only be broken in exceptional circumstances and should only occur after careful consideration that can justify your action".
UKCC Code of Professional Conduct 1992. Clause 10.
- vii) "Where disclosure is necessary to prevent serious injury or damage to the health of a third party where disclosure is in the best interests of the patient".
Protecting Children/A Shared Responsibility; Guidance for Health Professionals, 2000. p 28.

- vii) "They (health professionals) may be the first to see symptoms of abuse or neglect and should share any information about any concerns arising from suspicions of abuse or neglect with the social work service, the police or the Children's Reporter at an early stage"
Protecting Children/A Shared Responsibility (Interagency Guidance)1999. p14

1.4 Purpose

- i) Local authorities have a statutory duty under Sections 23 and 53 of the Children (Scotland) Act 1995 to carry out enquiries into the circumstances of children in their area about whom concerns have been reported. All three local authorities in the Tayside area (Angus, Dundee City, Perth and Kinross) have joint agreements with Tayside Police for the investigation of child protection referrals to them. These arrangements are defined by written protocols for joint working and by the internal procedures of each organisation.
- ii) The role of the Police is to carry out an investigation to determine whether an offence has been committed against a child and to take forward the criminal investigation process. The role of the Social Work Department is to carry out a risk assessment of the child's current and projected future situation, jointly interview any identified children with the Police, take any necessary child protection measures in respect of the child (for example to maintain a child safely at home, or where this is not possible, to remove the child to a safe place) and to arrange therapeutic intervention for the child and family.
- iii) Throughout the process described above access to accurate medical information pertaining to the child and/or his carers is important. The most obvious example of the need for this information is at the point of a joint Police/Paediatric medical examination as part of the investigation process, but there are many others; the need for background medical information pertaining, say, to a child's history of fractures or bruising, or the history of mental health difficulties experienced by a parent where this needs to be considered as part of an assessment of whether a child can be cared for adequately by that parent.
- iv) This protocol needs to ensure that urgent information can be obtained by investigating personnel without procedural impediment, but in a way which does not abuse the rights of the individuals concerned. It also needs to incorporate protocols for less urgent referrals where the personnel involved have less constricted timescales.

2 OBJECTIVES

The objectives of this protocol document are:-

- 2.1 To enable the sharing of relevant medical and health information between agencies which contribute to the health, welfare social care or safety of an individual child.

- 2.2 To encourage practitioners to consider carefully their reasons for sharing medical and health information and to ensure that the Caldicott Guardian principles and child's best interests are observed. Caldicott Guardian principles are listed in Appendix I

3 GENERAL PRINCIPLES

The general principles under which this protocol will operate are as follows -

- 3.1 Appropriate care is dependent on those providing that care having ready access to relevant information.
- 3.2 All staff have an obligation to safeguard the confidentiality of personal information or in specific circumstances, with approval of child, to ensure interests of child, to ensure interests of child are maintained. This is governed by law (see above), contracts of employment, by professional codes of conduct and agency procedures.
- 3.3 It is neither practical nor necessary to seek an individual's specific consent each time information needs to be shared for a particular purpose defined within this protocol, it is, however, contingent upon those individuals having been fully informed of the uses to which information about them may be put. All agencies concerned with the care of individuals or in the use of personal information must satisfy themselves that this requirement is met.
- 3.4 Access to personal information must be controlled on a **strict need to know basis** to appropriate staff working in the field of child protection and child welfare. Only minimum identifiable information sufficient to satisfy the purposes required should be made available.
- 3.5 Where an individual child states that they do not want their personal information divulged the **individual's wish should be respected** unless there are exceptional circumstances.

Exceptional circumstances in which an individual's right may be overridden would be where information is required to ensure the safety and well-being of the child. This may be by virtue of statute or court order, where there is serious risk to public health, risk of harm to other individuals or for the prevention, detection or prosecution of serious crime.

4 AGREED PARAMETERS

- 4.1 There will be one nominated Senior Professional Officer within each organisation/agency who will be responsible for agreeing the protocol and any subsequent amendments to the protocol in conjunction with the Health Service Caldicott Guardian/s and Data Protection Officers. All proposed amendments must be in writing and signed by the agreed nominated Senior Professional Officer. No amendments will otherwise be accepted. Senior Officers are listed in Appendix II.
- 4.2 Caldicott Guardian/s have agreed to act concertedly within the health service in Tayside so a response from any one Caldicott Guardian can be treated as a collective response from all Caldicott Guardians in the region. Caldicott Guardians are listed in Appendix I.
- 4.3 Personal information will be freely transferred between the health service and the named organisation/agency as agreed within the terms of this protocol. Each organisation / agency **must maintain an up to date register** of personnel and access rights for personal information. (NHS Tayside will be assumed to have general access rights in accordance with Caldicott Guardian requirements).
- 4.4 **Specific consent** will be required for transmission of personal information for purposes other than those defined in the protocol.

Requests for any access other than those identified **must** be submitted to the health service Caldicott Guardian/s. Proof of such consent will be required prior to any information being transferred

- 4.5 **There must be designated contacts in the different agencies regarding:**
- **Missing family alerts**
 - **Unborn baby alerts.**
 - **Child Protection Register keepers**

See Appendix III for details

5 ACCESS AND SECURITY

- 5.1 Confirmation that all the following standards are in place is required otherwise the **health service may restrict** the issue of patient identifiable information to protect patients from misuse of information.

Patient identifiable information supplied by the health service **must** be restricted to staff on a need-to-know basis as described in 3.4. Clinical and professional details should be made available to all those, but only those, involved in the care and protection of the individual child.

- i) Formal Policies and Procedures **must** be in place and covering the physical security of buildings, security awareness training of staff and security management of systems where Patient identifiable information may be held.

- ii) Each agency **must** take all reasonable care and safeguards to protect both the physical security of information technology and data contained within it.
- iii) All information systems containing Patient identifiable information will be subject to appropriate security measures.
- iv) All manual files and confidential information must be kept in secure conditions when not in use. Keys for lockable storage cabinets should be held only by staff, who require regular access to the information they contain. Keys must be held in a secure place.

6 TRANSMISSION OF INFORMATION

6.1 Patient identifiable information shall be shared by one or any of the following:

- written report, letter, telephone and FAX
- i) Written reports/letters should be sealed and clearly marked 'Personal to the Addressee'.
- ii) FAX machines should be managed in such a way that you can be confident of adequate safeguards being in place to ensure information security. NHS guidance on the use of fax machines is detailed in Appendix IV

7 RESTRICTIONS ON USE OF INFORMATION PROVIDED

7.1 Any confidential Patient Information provided **must** only be used for the purposes requested.

7.2 Patient confidential information **must under no circumstances** be sent via the Internet. It is permissible to transmit data under controlled circumstances via the NHSnet.

8 RESPONSIBILITY FOR THE MANAGEMENT OF THE PROTOCOL

8.1 The health service Caldicott Guardian/s are ultimately responsible for ensuring the terms of this protocol are adhered to by those Staff / Agencies to, which Patient confidential information is supplied. Similarly the designated Senior Professional Officer for the Agency is responsible for ensuring all local Policies and Procedures are implemented.

8.2.1 Any **breaches of the protocol must** be brought to the immediate attention of the **health service Caldicott Guardian/s**.

8.3 The Caldicott Guardian/s will audit adherence to the protocol to ensure the Caldicott principles are maintained.

PRINCIPLES OF CALDICOTT GUARDIAN PROCESS

i) Justify the purpose(s)

Every proposed use or transfer of patient-identifiable information within or from an organisation should be clearly defined and scrutinised, with continuing uses regularly reviewed by an appropriate guardian.

ii) Don't use patient-identifiable information unless it is absolutely necessary.

Patient-identifiable information items should not be used unless there is no alternative.

iii) Use the minimum necessary patient-identifiable information.

Where use of patient-identifiable information is considered to be essential, each individual item of information should be justified with the aim of reducing identifiability.

iv) Access to patient-identifiable information should be on a strict need to know basis.

Only those individuals who need access to patient-identifiable information should have access to it, and they should only have access to the information items that they need to see.

v) Everyone should be aware of their responsibilities.

Action should be taken to ensure that those handling patient-identifiable information – both clinical and non-clinical staff – are aware of their responsibilities and obligations to respect patient confidentiality.

vi) Understand and comply with the law

Every use of patient-identifiable information must be lawful. Someone in each Organisation should be responsible for ensuring that the organisation complies with legal requirements

CALDICOTT GUARDIANS IN TAYSIDE

Dr Drew walker
Director of Public Health
Tayside NHS Board
Kings Cross Hospital
Cleington Road
Dundee DD3 8EA

Mr Mike Lyall
Medical Director
Tayside University Hospitals
Ninewells Hospital
Dundee DD1 9SY

Dr Bill Mutch
Medical Director
Tayside Primary Care
Ashludie Hospital
Monifieth
Dundee DD5 4HQ

SENIOR OFFICERS**NHS Tayside**

Name	Tel number	Name	Tel number	Name	Tel number
Caroline Selkirk Commissioner for Children's Services Tayside NHS Board Kings Cross Hospital Cleington Road Dundee DD3 8EA	01382 632392	Caroline Selkirk Commissioner for Children's Services Tayside NHS Board Kings Cross Hospital Cleington Road Dundee DD3 8EA	01382 632392	Caroline Selkirk Commissioner for Children's Services Tayside NHS Board Kings Cross Hospital Cleington Road Dundee DD3 8EA	01382 632392

Angus Council

Name	Tel number
George Bowie Service Mqnager Angus Council Social Work Academy Lane Arbroath DD11 1EJ	01241 878585

Dundee City Council

Name	Tel number
Donald McKenzie Service Manager Dundee City Council Social Work Lothian Crescent Dundee DD4 0HU	01382 438260

Perth & Kinross Council

Name	Tel number
John Gilruth Head of Service Education & Children's Services Perth & Kinross Council Pullar House	01738 476200

CONTACT DETAILS

	<u>ANGUS</u>		<u>DUNDEE</u>		<u>PERTH & KINROSS</u>	
	Contact	Telephone	Contact	Telephone	Contact	Telephone
<u>MISSING FAMILY ALERTS</u>						
NHS Tayside	John Whamond Child Protection HV	01307 466281	Anne Burgham Child Protection HV	01382 668842	Gwen Proctor Child Protection HV	01738 564295
Local Authority	George Bowie Service Manager	01241 878585	Donald McKenzie Service Manager	01382 438260	Catriona Rioch Planning Officer	01738 476903
<u>UNBORN BABY ALERTS</u>						
NHS Tayside	Margaret Hogg Head of Midwifery	01382 632132	Margaret Hogg Head of Midwifery	01382 632132	Margaret Hogg Head of Midwifery	01382 632132
Local Authority	George Bowie Service Manager		Steve Clark Snr Social Worker	01382 668538	Catriona Rioch Planning Officer	01738 476903
<u>CHILD PROTECTION REGISTER</u>						
NHS Tayside	Lorna Wiggin Clinical Team Manager (Paed/CH)	01382 632971	Lorna Wiggin Clinical Team Manager (Paed/CH)	01382 632971	Lorna Wiggin Clinical Team Manager (Paed/CH)	01382 632971
	John Whammond Child Protection HV	01307 466281	Anne Burgham Child Protection HV	01382 668842	Gwen Proctor Child Protection HV	01738 564295
Local Authority	George Bowie Service Manager		Donald McKenzie Service Manager	01382 438260	Catriona Rioch Planning Officer	01738 476903

Information Management - Guidance on Use of Facsimile Machines

Introduction

NHS Tayside holds large amounts of confidential information about individuals, members of their family, friends and colleagues. This information is held on behalf of those individuals, and NHS Tayside makes use of that information on the basis of confidentiality and, whenever practical, informed consent. Where an employee (you) makes such use of information, you must treat its use with the respect and integrity that you would wish your information to be handled by others. You must handle this information with care to ensure that person identifiable information is not made available inappropriately or to unauthorised persons.

One of the most common breaches of confidentiality occurs when documents containing person identifiable information are sent by facsimile (fax) machine. The fax machine you are sending information to may be sited in an open office, or even in a corridor, and may be shared by more than one department, unacceptably increasing the risk of the information being seen by people not entitled to see it.

These guidelines apply to the faxing of any information of a confidential nature to minimise the risk of person identifiable information being divulged to anyone who is not entitled to such information.

What is person identifiable information?

Person identifiable information is any data which can in itself, or with other data, enable the individual to be identified. This can include any one or more of the items listed below;

- | | |
|--------------------------|--------------------|
| ➤ Surname | ➤ Forename |
| ➤ Initials | ➤ Address |
| ➤ Date of Birth | ➤ Occupation |
| ➤ Postcode | ➤ NHS Number |
| ➤ Sex | ➤ Ethnic Group |
| ➤ National Insurance No. | ➤ CHI Number |
| ➤ Telephone Number | ➤ Local Identifier |

Secure Fax Machines

A secure fax machine is managed in such a way that you can be confident that information can be transferred to or from it in the knowledge that adequate safeguards are in place to ensure its security. These safeguards may include;

- the fax machine being sited in a secure room with controlled access
- the organisation having a written policy for handling faxes that staff have been informed about and that they understand
- the fax messages are received and stored in memory, either the fax machine or computer, which requires a controlled password to access the message
- staff who are responsible for collecting, holding and delivering the faxed information to the appropriate person

You should make every effort to use secure fax machines whenever possible when it is necessary to transfer data by fax.

How do I know if the fax machine I am sending information to is a Secure fax machine?

A directory of Secure fax machines across Tayside will be compiled following the issue of a questionnaire which will ask what safeguards are in place. If you do not know the security status of the recipient's fax machine, telephone the recipient to ensure that there will be no undue confidentiality risk.

What sort of information do I need to know to ascertain whether or not it is a Secure fax machine?

You could ask these simple questions;

- is the fax machine sited in a secure office?
- does more than one department use the fax machine?
- Are fax messages received and stored in memory, either the fax machine or computer, which requires a controlled password to access the message?
- are there designated people who collect/deliver faxes?.

If you are not satisfied with any of the answers to the above questions then assume that the fax machine is not secure.

What shall I do if the fax machine is not a Secure fax machine?

- telephone the recipient of the fax (or their representative) to let them know you are going to send person identifiable information by fax.
- ask if they could wait by the fax machine whilst you send your message through
- ask if they could acknowledge receipt of the fax
- make sure that you use a fax cover sheet that states that the information you are sending is confidential **suggested wording below*
- double check the fax number before you hit the send button to ensure that the correct number has been dialled
- print a report sheet from the fax machine to confirm that transmission is OK.

* The information contained in this fax is **STRICTLY CONFIDENTIAL** and intended for the named recipient only. If you are not the named recipient you must not copy, distribute or disseminate this information, nor disclose its content to any person. If you have received this fax in error, please notify the sender immediately. Thank You.

Other safeguards for secure transmission of confidential information.

It is NOT advisable to;

- send faxes to a destination where you know they are not going to be seen for some time.
- send faxes to a destination outside office opening hours (whenever possible)
- leave the information unattended whilst the information is being transmitted
- key in the full fax number if this is avoidable. If it is a number that is used regularly, it can usually be stored in the fax dialling memory.

This guidance covers personal information about staff as well as patients.

If you find that a confidential document has been sent to your fax machine in error, it is your responsibility to;

- inform your manager that you have received an incorrectly addressed fax containing confidential information
- give the information listed below to your manager
- ensure that it is given to the named recipient or securely returned to its source

If a member of staff informs you of an incident where a confidential document has been sent to your department fax machine in error, it is your responsibility to;

- record the sender, date sent and the intended recipient there is no need for the content to be disclosed or recorded
- pass this information to the Data Protection Officer

Data Protection Officers:

Name	Telephone	Fax	E-mail
Rae Taylor	01382 421050	01382 424003	rae.taylor@thb.scot.nhs.uk
Stewart Hunter	01382 633472	01382 496449	stewart.hunter@tuht.scot.nhs.uk
Peter McKenzie	01382 423066	01382 423093	peter.mckenzie@tpct.scot.nhs.uk