

Trust Care Management Ltd

Privacy Notice: Service Users' data (v.01)

(1) Introduction

The purpose of this privacy notice is to ensure that personal data of service users is processed by Trust Care Management Ltd (TCM) in a fair, lawful and transparent manner and that service users are well informed about collection and use of their personal data.

The terms, 'we', 'us' and 'our', 'the organisation' and 'the company', as utilised in this privacy notice refers to all services and facilities (residential and nursing) operated by Trust Care Management Ltd across the UK.

(2) Key Terms

Data subject - any living individual who is the subject of personal data held by the organisation.

For the purpose of this notice, data subjects will include:

- Existing service users of TCM
- Potential service users
- Relatives and representatives of existing and potential service users

"Personal data" or "Personal Information" means any information relating to an identified or identifiable natural person ("data subject"); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person. Examples of personal data include names, addresses, date of birth, NHS number, care records etc.

"Processing" means any operation or set of operations performed upon personal data or sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

"Special Category data" or 'Sensitive Personal data' are personal data, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership; data concerning health or sex life and sexual orientation.

(3) Data Controller

Trust Care Management Ltd (TCM) is the data controller responsible for determining the purpose and means by which processing of all personal information of its service users and related parties is conducted.



TCM is registered with the Information Commissioner's Office (ICO) as a data controller under registration reference **ZA231112**

The contact details of the data controller are as follows:

Contact Names

Zyaad Khoyrutty (Data Protection Officer) – First Contact
Carol Smit (Managing Director) – Lead Contact

Address

Trust Care Management Ltd (TCM)
319b Walton Road
West Molesey
Surrey
KT8 2G

Telephone

0208 979 3786
07557 141 592

Email

zyaad.khoyrutty@trustcare.co
carol.smit@trustcare.co

Any queries in relation to this notice as well as any contact from data subjects wishing to exercise their right under this notice must be made through the contact details provided above.

(4) Applicable legislation

The EU **General Data Protection Regulation** (GDPR) and **Data Protection Act 2018**

(5) Our purpose for processing your personal data

Trust Care Management Ltd process your information to provide you with safe, effective, responsive and person-centered care, treatment and support tailored to meet your individualised needs in accordance with our statutory and regulatory obligations, to fulfill our contractual obligation relating provision of service to you and to uphold our legitimate interest as a business. The information we hold on you will be kept as a paper record, electronically (for example in electronic service user records or digital images) or both.

The purpose of this notice is to tell you how TCM processes information about you in accordance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018. This is sometimes also known as a 'fair processing' notice. It tells you:

- how we collect information about you
- what information we hold on you
- how your records are used

- when we might share information about you
- the lawful basis for processing your information
- your rights in relation to processing of your information
- How long we intent to retain your information

(6) How do we collect your information

Primary Sources

We collect detailed information from you or your close relatives through face to face discussions and observations during pre-admission assessments and at subsequent meetings. This information helps us determine whether we can meet your needs and informs our placement decision and subsequent decisions relating your care, treatment and support.

Secondary Sources

Sometimes the organisation will need to collect personal data from sources other than the individual it relates to. These sources include:

- Relatives and family members
- Previous placements including residential, nursing or hospital
- Social workers
- Local authorities
- Health commissioning groups
- Health and medical professionals including therapists
- Personal assistants and informal carers
- Advocates
- The courts and the police
- Relevant persons representative
- Court appointed deputy
- Independent case workers
- Other legal representatives

(7) What information we hold about you

We aim to provide you with the highest quality and standard of care. To do this, we must keep records about you, your health and the care we have provided or plan to provide to you. This information is kept in your care folder.

Records, we hold, may include:

- Basic details about you, such as name, address, date of birth, next of kin and close relatives' details
- Contact we have had relating your care, such as referrals and enquiries.
- Details and records of treatment, care/support plans and risk assessments, including medical records and reports, accidents and general health.
- Results of assessments and investigations.

- Photographs of wounds (for clinical monitoring purposes), photographs of you for identification purposes or photograph of you participating in activities or social events.
- Information from people who either provide or support the package of care through their personal relationship, knowledge or expertise, such as health professionals, social workers, relatives and significant others.
- Financial information such as invoices, receipts, statements and related correspondences in respect of both care fees and personal allowance monies.
- Record of advanced decisions and Lasting Power of Attorney documents.

(8) How your records are used

We use your records to:

- provide a good basis for any treatment, care and support we provide to you
- make sure the service we provide is safe, effective, caring and responsive.
- any advice we provide is appropriate and relevant to you
- work effectively with others providing you with care, treatment or advice
- properly investigate your concerns if you raise a complaint

(9) When we might share information about you

We have a duty to:

- maintain full and accurate records of the care we provide to you
- keep records about you confidential and secure
- provide information in a format that is accessible to you (for example in large type if you are partially sighted)

We do not share or disclose any of your personal information without your consent, other than for the purposes specified in this notice and where there is a legal requirement. The company uses third-party organisations to provide certain business functions such as IT support services, insurance and legal advice. All processors acting on our behalf only process your data in accordance with instructions from us, applicable data protection laws and approved confidentiality and security measures.

We may share your personal health and social care information with members of the health and social care teams looking after you or involved in your care in a way that you would reasonably expect us to do. Such information will only be disclosed to other professionals to the extent required for them to fulfill the purpose of their involvement i.e. on a need to know basis. These teams may include:

- Care, management and senior management staff employed by TCM who are either directly involved in your care or in the effective management of internal management systems we operate such as for quality assurance purposes.
- Multidisciplinary team professionals (such as GPs, agency workers, doctors, district nurses, pharmacists, physiotherapists and occupational therapists, dietician, speech

and language therapists, mental health professionals, for example) who are involved in providing you with treatment or advice.

- Local authority staff and/or care commissioning team funding your stay (in accordance with the terms, conditions and provisions of the funding agreement)
- NHS and other medical professionals involved in your care
- Administrative support staff
- agency staff working for our services under approved arrangements
- Clinical or social care students in training
- Other care provider(s) acting on your instruction or instruction from your funding authority.
- Advocates

In certain instances, we have a legal duty to share information with regulators and national bodies such as,

- The Health and Safety Executive (HSE) in relation to any safety matters
- The Information Commissioners office (ICO)
- The Care Quality Commission (CQC)
- The courts and the police

All TCM staff are bound by the common law duty of confidentiality in respect of your personal information. In accordance with data protection regulations, TCM has a Caldicott Guardian; operates a comprehensive information governance framework to manage and process your information lawfully and implement appropriate organisational and technical measures throughout all its services to safeguard and protect the security and confidentiality of your information, enabling appropriate information sharing to facilitate provision of quality and effective care through agreed sharing protocols.

(10) Lawful basis for processing your information

We require your data so that we can provide high quality, safe and person-centered care and support to you. By law, we need to have a lawful basis for processing your personal data. We process your personal data because:

- We have a **legal obligation** to do so – generally under the Health and Social Care Act 2012 or Mental Capacity Act 2005
- We are required to do so in order to **fulfil our contractual obligation to you** or to take steps to enter into a contract at your request.
- To protect your **vital interest** in emergency situations, where you are incapable of giving consent.
- We are required to provide data to our regulator, the Care Quality Commission, as part of our **public interest** obligations. (As far as reasonably practicable, the information we provide the CQC about you will be in a format that will not reveal your identity to them)

- In instances where the above bases do not apply, we may use **consent** or **our legitimate interest** as a service provider and a business, as lawful basis for processing (as described below).

(i) Consent

We use consent as a valid lawful basis for processing when we are able to offer you real choice and control over your data and when you are able to withdraw your consent without any adverse consequences. For example, we will ask for your explicit consent before we use photographs or videos of you in promotional material or on our website.

There may be times when we need to share your information without your consent, for example:

- where there is a risk of harm to you or other people.
- where we believe that the reasons for sharing are so important that they override our obligation of confidentiality (for example, to support the investigation and prosecution of offenders or to prevent serious crime).
- where we have been instructed to do so by a Court.
- where we are legally required to do so e.g. statutory notifications to the CQC
- to control infectious diseases such as MRSA, C diff etc.
- if you are subject to the Mental Health Act (1983), there are circumstances in which your 'nearest relative' must receive information even if you object.

Please note: Some information we have to share is used for statistical purposes, and in those instances, we take measures to ensure that you cannot be identified.

Our guiding principle is that we are holding your records in strict confidence. Anyone who receives information from us also has a legal duty to keep it confidential.

(ii) Legitimate Interest

We use legitimate interest as our valid lawful basis for processing if there is no legal or contractual obligation for the processing activity. In doing so, we take care to ensure that your data is used in ways you would reasonably expect and that will have minimal impact on your privacy.

We have identified legitimate interest as the basis for the following processing activities:

- (1) The legitimate interest of undertaking 'none core' activities to provide a better service to service users and improve customer experience such as:
 - the management and administration of our 'Resident Personal Allowance Account'. This involves service users or their relatives voluntarily putting funds in a central corporate bank account to be used to cover expenses not included in their care fees such as hairdressing, chiropody, newspapers, telephone bills etc. In respect of this account, TCM acts as a custodian for service user monies.
 - Keeping records of service user personal belongings such as valuables, furniture, clothing, electronic equipment etc.

- Sharing certain information about service users with non-care organisations such as the DWP relating administration of benefits, maintenance of electoral register etc
- (2) The legitimate interest of the organisation to collate and analyse service user information received via third party referrals for placement such as local or commissioning authorities, to make informed placement decisions.
 - (3) The legitimate interest of the organisation to collate and analyse service user data for the purpose of establishing any emerging trends among service user groups. The outcome of these analyses assists us in implementing informed service improvement actions in the best interest of service users such as, recruitment and training of staff to meet specific needs of service users, planning and implementing social activities (internal or external) to suit individual or group preferences and enhancing the safety and appearance of the physical environment our service users live in.
 - (4) The legitimate interest of operating CCTV systems in certain areas of our premises and keeping records of visitors to help us maintain the security of our premises from intruders, prevent and investigate crime or wrongdoing and maintain the health and safety of our service users, staff and visitors.
 - (5) The legitimate interest of effective and relevant communication to you or your relatives such as issuing periodic newsletters, keeping you updated with changes in company circumstances or any other communication you would reasonably expect to know or be kept informed about.
 - (6) The legitimate interest of the company to employ the services of a debt collector to recover debt.
 - (7) The legitimate interest of the company to share your information with external contractors we outsource specialist services to, e.g. with IT service providers for the management of our electronic system and the provision of network and information security. Please note that contractors will only process information according to our instructions established through a binding contractual agreement and not on their own accord.
 - (8) The legitimate interest of the company to process information in defense of legal claims and sharing information with our legal team, in the process. Please note that our lawyers, solicitors and consultant are data controllers in their own rights and have a duty to protect your information as much as we do and to keep it confidential in accordance with their own professional obligation to secrecy.
 - (9) Contacting service users' N.O.K, using contact details provided to us, in emergency or to update them on significant changes to health and wellbeing of the service user.
 - (10) Communication with potential users of our services through direct marketing e.g. if a data subject completes an online form on our website requesting for more information about the services we provide, we may use their personal data to send them our brochure.
 - (11) Keeping basic information of data subject who have expressed objection to processing of their data in particular ways so that we can ensure that their privacy rights are respected.

The use of your data for the legitimate interest of organisation is subject to appropriate safeguards including, but not limited to, the use of pseudonymisation i.e. processing your information in a coded form only identifiable by us, where appropriate.

(11) Special Category Data

Owing to the services we provide and the general nature of our business, the organisation needs to process sensitive personal information such as health data about you, to provide a safe and effective service relating to your health, welfare and support. When we do so, we process the minimum necessary for the specified purpose and identify a compliant legal basis for doing so. GDPR requires organisations to identify an additional lawful basis for processing sensitive personal data to the ones listed in section above titled 'Lawful basis for processing your information'. Our additional legal basis for processing your sensitive personal information will be as follows:

- It is necessary to process due to **social security** and **social protection laws** (generally this would be in safeguarding instances)
- It is necessary to process for us to **provide and manage health and social care services and systems**

(12) Your Rights

Subject to certain exemptions, and in some cases dependent upon the processing activity we are undertaking, you have certain rights in relation to your personal information. You have the following rights:

- To confidentiality
- To be informed
- To access your personal information
- To rectify / erase your personal information
- To restrict the processing of your personal information
- To transfer your personal information
- To object to the processing of your personal information
- To object to how we use your personal information for direct marketing purposes
- To lodge a complaint with the UK's data protection regulator (ICO)

If you wish to access any of the above-mentioned rights, we may ask you for additional information to confirm your identity and for security purposes, in particular before disclosing personal information to you. We reserve the right to charge a fee where permitted by law, for instance if your request is manifestly unfounded or excessive.

You can exercise your rights by contacting us using the details in **section 3** of this privacy notice. Subject to legal and other permissible considerations, we will make every reasonable effort to assist you in exercising your rights, inform you if we require further information in order to fulfil your request and provide you with explanation if we cannot meet your request in certain circumstances.

We may not always be able to fully address your request, for example if it would impact the duty of confidentiality we owe to others, or if we are legally entitled to deal with the request in a different way.

(i) Right to Confidentiality

You have the right to confidentiality under the Data Protection Regulations, the Human Rights Act 1998 and the common law duty of confidentiality (the Equality Act 2010 may also apply).

(ii) Right to be informed

You have the right to know what information we hold about you, what we use it for and if the information is to be shared, who it will be shared with. This document is one of the ways we use to satisfy the requirement to keep you informed. Other ways we use to communicate such information includes, but is not limited to, written correspondence or verbal communication via meetings, telephone or face to face conversation.

(iii) Right to access

You have the right to access your information we hold about you (subject access). We shall respond to a subject access request within a month of receiving such a request in writing. We reserve the right to verify the identify of the person making the request prior to disclosing any information.

Access covers:

- the right to obtain a copy of your record in permanent form
- the right to have the information provided to you explained where necessary (for example, abbreviations that you do not understand)

Should you wish to exercise your right to ask for a copy of all records about you

- Your request must be submitted to us in writing
- We are required to respond to you within a month
- You will need to provide us adequate information (for example full name, address, date of birth etc)
- You will be required to provide ID before any information is released to you

(iv) Right to rectify or erase personal information

You have a right to request that we rectify inaccurate personal information. You can also request that TCM restrict all processing of data while we consider your rectification request. We may seek to verify the accuracy of the personal information before rectifying it.

You can also request that we erase your personal information in the following limited circumstances:

- where it is no longer needed for the purposes for which it was collected; or
- where you have withdrawn your consent (where the data processing was based on consent); or

- following a successful right to object (see right to object); or
- where it has been processed unlawfully; or
- to comply with a legal obligation to which we are subject.
- Where the processing is based on our legitimate interest

We are not required to comply with your request to erase personal information if the processing of your personal information is necessary:

- for compliance with a legal obligation; or
- for the establishment, exercise or defense of legal claims.

(v) Right to restrict the processing of your personal information

You can ask us to restrict the processing of your personal information, but only where:

- its accuracy is contested, to allow us to verify its accuracy; or
- it is no longer needed for the purposes for which it was collected, but you still need it to establish, exercise or defend legal claims; or
- you have exercised the right to object, and verification of overriding grounds is pending.

We can continue to use your personal information following a request for restriction, where:

- we have your consent; or
- to establish, exercise or defend legal claims; or
- to protect the rights of another natural or legal person.

(vi) Right to transfer your personal information

You can ask us to provide your personal information to you in a structured, commonly used, machine-readable format, or you can ask to have it transferred directly to another data controller, but in each case only where:

- the processing is based on your consent or on the performance of a contract with you; and
- the processing is carried out by automated means.

Please note that the right to data portability only applies to personal information you have supplied to us and not to 'derived' or 'inferred' information. For example, information you have provided us during a pre-admission assessment is transferrable but any care plans and risk assessment 'derived' from the assessment is not.

(vii) Right to object to the processing of your personal information

You can object to any processing of your personal information which has our legitimate interests as its legal basis, if you believe your fundamental rights and freedoms outweigh our legitimate interests.

If you raise an objection, we have an opportunity to demonstrate that we have compelling legitimate interests which override your rights and freedoms.

(viii) Right to object to how we use your personal information for direct marketing purposes

Please note that we do not currently use information of existing service users or related parties for direct marketing purposes. The organisation also does not apply automated decision making to the personal data we process about you. We will let you know if our current position change in respect of direct marketing in the future.

(ix) Right to lodge a complaint with the Information Commissioner's office (ICO)

You have a right to lodge a complaint with the UK's data protection regulator, the ICO, if you have concerns or wish to make a complaint about how we are processing your personal information.

We ask that you give us the opportunity to resolve any issues or concerns in the first instance, although you have a right to contact the ICO at any time.

You can contact the ICO through their website at <https://ico.org.uk/make-a-complaint/your-personal-information-concerns/> or by writing to Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. You can also receive advice about your rights through the ICO's helpline 0303 1231113.

(13) Consequence of not providing data or data subject exercise of right to object or restrict processing

The organisation relies on having up to date and correct information about its service users to deliver a safe effective service. Service users, their relatives and other parties involved in their care have a responsibility to inform us if we are holding incorrect information, thus giving us a chance to put things right.

The organisation will only ask you to provide information for which it has a genuine need. If you fail to provide any requested information, there is a chance that your records could be incorrect, or incomplete and this could hinder our ability to deliver a safe and effective service. Restricting or objection to processing may also hinder our ability to provide certain or all of our services. The extent to which the services we provide you will be impacted will depend on the scope of the objection or restriction and will need to be assessed on a case by case basis. If and when you write to us in relation to your right to object or restrict processing, we will let you know the exact implications from a service delivery perspective giving you an opportunity to make an informed decision.

(14) How long we intend to retain your information

The personal information that you provide will be retained by us in accordance with applicable laws and our internal Record Retention Policy. We will take reasonable steps to destroy or de-identify personal information we hold, if it is no longer needed for the purposes we collected it for. A copy of our retention policy is available on request.

(15) Changes to this Notice

This notice is regularly reviewed to reflect changes in the way we process your data. We will keep you informed of any significant changes, as and when we update this notice.