

Disclosing Information to the Police SOP

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Contents

Introduction.....3

Statutory Duty to Disclose Information3

Guidance on the Exemption to GDPR.....4

Steps to Take5

Confidentiality6

Version Control.....7

Appendix One - Application for Disclosure of Personal Information.....8

Disclosing Information to the Police SOP V1.0

Introduction

This guidance relates to requests from the Police for access to personal information held by us on a data subject. This will usually be a patient, but it could also be another individual. The words data subject, individual and patient have been used where relevant.

This guidance does not deal with reports to the police we make with regards to criminal offences or threatening and abusive conduct. These reports can still be made whenever it is deemed necessary by a member of staff

These request by the Police are not subject access requests.

The paper also provides guidance on the situations where we have a duty to disclose information to the Police even though we have not been asked to do so.

These requests are sometimes made by the Police as an emergency and outside normal working hours, so it is important everyone in our organisation understands what to do.

Requests may also be made by other law enforcement agencies to which this guidance will apply, but in respect of other law enforcement agencies it is advisable to speak to our DPO before making any decision.

Personal information held by us is managed in accordance with GDPR and the Data Protection Act 2018 (DPA 2018). Our Data Protection Policy, Subject Access Request Procedure and Privacy Policy provide guidance on the situations in which personal data can be disclosed and transferred outside our organisation.

It is the policy of BrisDoc to assist the Police and other law enforcement agencies whilst still upholding an individual's right to confidentiality and complying with GDPR.

No part of this guidance is intended to overrule a clinician's professional duty of confidentiality. Guidance on confidentiality is provided below.

Statutory Duty to Disclose Information

There are situations in which we have a mandatory obligation to disclose or volunteer information to the police:

- Road Traffic Act 1988. Where the investigation concerns offences involving motor vehicles, we can provide the Police with occupant/driver demographic details. Under this Act any person must give information that may lead to the identification of the driver of a vehicle, where the driver is alleged to have committed an offence under the Act. It should be noted that the information is restricted only to enable an identification of the driver and no other information should be given. You are not required to disclose clinical or other confidential information.
- Prevention of Terrorism Act 1989 and Terrorism Act 2000. We must inform the Police if we have information (including personal information) that may assist the Police in preventing an act of terrorism or help in apprehending or prosecuting a terrorist.
- The Female Genital Mutilation Act 2003. We have a statutory duty to report to the Police under section 5B of this Act where it appears that a girl under the age of 18 has been subject to genital mutilation.

Disclosing Information to the Police SOP V1.0

- Court Order. The Police will sometimes obtain a court order requiring us to disclose certain information.

If we do not to comply with our statutory duty under these Acts we would be prejudiced and therefore the exemption which allows us to disclose information, which is set out below, applies and we will not breach GDPR by providing the information to the Police.

In line with the accountability principle, we still need to justify and document our reasons for relying on an exemption or statutory duty so that we can demonstrate compliance with the Data Protection Act.

Guidance on the Exemption to GDPR

The providing of personal information on any data subject amounts to the processing of that information and generally we would ensure we follow our internal policies.

However, the Data Protection Act 2018 includes an exemption which allows personal data to be disclosed to a law enforcement agency without the consent of the individual data subject and regardless of the purpose for which the data was originally collected.

Requests made under this exemption are not subject access requests as the police or other law enforcement agencies are not making a request for personal information on behalf of the data subject.

The exemption will apply if we process personal data for the purposes of:

- a) the prevention and detection of crime;
- b) the apprehension or prosecution of offenders; or
- c) the assessment or collection of a tax or duty or an imposition of a similar nature.

Providing personal information to a law enforcement agency is processing and we will be exempt from GDPR provisions if one or more of a), b) or c) above apply but only to the extent that complying with GDPR provisions would:

- be likely to *prejudice* our purpose (e.g. have a damaging or detrimental effect on what we are doing); or
- *prevent* or *seriously impair* us from processing personal data in a way that is required or necessary for our purpose.

What this means is complying with GDPR and our policies would prejudice us in a situation in which we need to prevent or detect crime. Examples may assist:

Example 1 - We are aware of possible criminal activities against our organisation and to enable these to be investigated we decide to make a report to the police. Passing any personal information to the police is processing and normally we would need to comply with GDPR. However, to comply with GDPR would prejudice our purposes of protecting the organisation so the exemption under a) and b) above will apply and we can report our findings to the police without complying with GDPR

Disclosing Information to the Police SOP V1.0

Example 2 - The police contact us asking to disclose personal information of a patient. The police advise they are investigating a serious offence and we appreciate disclosure would be in the public interest. To disclose the personal information even if in the public interest is still processing and normally, we must comply with GDPR. However, the police require the information for purposes under a) and b) above and if we comply with GDPR we prejudice our purpose of working in the public interest, so the exemption applies and GDPR does not apply.

In line with the accountability principle, we still need to justify and document our reasons for relying on an exemption or statutory duty so that we can demonstrate compliance with the Data Protection Act.

Steps to Take

1. There will be situations in which no request has been made by the Police, but the circumstances mean that disclosure of information to the Police is the correct approach. This will apply:
 - When we have a statutory duty to disclose – see Statutory Duty above.
 - If we believe there is a sufficiently important reason to disclose and a legal basis to do so. This will often be the case if it is believed someone may be seriously harmed or death may occur if information is not passed to the Police. This is often referred to as disclosure in the public interest.

In each of these situations it is essential to refer the case to BrisDoc's Governance Team for discussion with the Caldicott Guardian or our DPO before any disclosure is made.

2. Any request from the Police should be referred to the BrisDoc Governance Team.
3. The request will often be in writing but could be a verbal request. As we are subject to the GDPR principle of accountability we will ask the Police to make the request in writing. If the Police do not have their own form they will be asked to complete the form in Appendix One.
4. Any written request should at the least contain:
 - Details of the officer and the Police Force. E.g. warrant card details.
 - The nature of the personal information required.
 - The nature of the investigation.
 - Certify the information is necessary for the investigation.
 - The statutory powers the Police are relying on e.g. DPA 2018 Schedule 2, Part 1.
 - If the Police are relying on the exemption under DPA 2018 for the Police to set out which part the Police are relying on. e.g. the prevention or detection of crime.
 - The signature of a Police Officer, preferably of at least the rank of Inspector. Some forces have developed policies allowing officers below the rank of Inspector to sign these requests.
5. If the situation is an emergency, it may be necessary to dispense with completion of a form, but this will be very unusual. Just because the Police start by saying it is an emergency situation it is still important to ask questions and decide whether it is an emergency. The verbal request must be followed up with written confirmation from the Police. An emergency situation is one where we have reason to believe that there is a danger of death or serious injury to an individual.
6. Whilst we always wish to cooperate and assist the Police in the prevention and detection of crime all staff should be confident to challenge a request and should not be

Disclosing Information to the Police SOP V1.0

intimidated into disclosing personal information especially where they have doubt as to the validity or urgency of the request.

7. It is important that we only disclose the information relevant to the request or duty to disclose. This means we must carefully consider what personal information should be provided to the Police to fulfil the request or duty. We should not simply supply all personal information we have. Every case will be different.
8. On considering a Police request for disclosure we will:
 - Ensure we have taken identification evidence from the individual asking for the disclosure and that we are satisfied they are the relevant Police Officer.
 - That we have been given information to show there is a genuine and properly authorised investigation. If we are not satisfied there are valid grounds for releasing the information we can refuse to do so. The exemptions under DPA 2018 are permissive and not mandatory. This means that the exemptions do not automatically apply. We must be able to demonstrate that in each case, they do so. We do not wish to be in a situation of a claim that information was released contrary to GDPR.
 - Take into consideration that if we refuse a request the Police may obtain a court order requiring us to release.
 - Consider whether it is necessary to discuss the matter with the Caldicott Guardian or our DPO.
 - Consider our duty of confidentiality – see Confidentiality guidance below.
 - Even in an emergency situation we will not rely on a telephone request. We must still satisfy ourselves about the identity of the caller and the nature of the emergency. In an emergency situation we will always require follow up written confirmation.
9. If we decide to comply with a request for disclosure of personal information we will:
 - Only disclose the minimum amount of personal information which is necessary to assist the Police.
 - Provide copies of the personal information and transfer these to the Police by a secure method.
 - Retain on the data subject's records a copy of the written request and any other exchanges with the Police.
 - Document on the data subject's records any reasons for disclosing information without their consent in respect of confidentiality – see confidentiality below.
 - If we have communicated with the data subject, retain on their records copies of any communication.
 - Retain on the data subject's records copies of any communications with the Caldicott Guardian or our DPO.
 - Even though this is not a SAR we will still record the disclosure in the SAR Register.

Confidentiality

When deciding to disclose personal information under a statutory duty or in response to a request from the Police the duty of confidentiality applies.

Whilst here we provide some guidance you should always consider discussing this with the Caldicott Guardian and our DPO and always document their advice and your decision.

Whenever we refer to consent in this guidance, we are considering consent in relation to confidentiality rather than consent in relation to GDPR. We have a duty of confidentiality and we should normally seek consent to release confidential information rather than breach this duty.

Disclosing Information to the Police SOP V1.0

Statutory Duty Disclosure – complying with a duty under a statute requires balancing the duty to comply and the duty of confidentiality to the data subject, usually a patient. If telling the data subject about the disclosure would undermine the purpose of the disclosure, then it will be reasonable not to advise the data subject.

Public Interest Disclosure – this will be a situation in which we believe that there is a risk of death or serious harm to an individual. In this situation we are balancing the effect of disclosure on the individual (and if a patient, the trust the patient has in the doctor), against the potential benefits arising from the release of the personal information. If you consider that a failure to disclose would leave a risk that is serious and outweighs the patient's and the public interest in confidentiality, then you should probably consider disclosing the personal information without advising the patient about the disclosure. Only if you believe it is safe to do so, should you advise the patient of your intention to disclose.

Disclosure under DPA 2108 – whenever the Police make a request for disclosure relying on the exemption under the DPA 2108 the duty of confidentiality still applies. The exemption is from the requirements of GDPR not the requirements of the common law duty of confidentiality. Consequently, a decision to disclose should be supported by the consent of the data subject or be sufficiently in the public interest to warrant the disclosure without the data subject agreeing. Consider:

- a) Is the personal information highly confidential? Health information will usually be highly confidential so the starting point is that the explicit consent of the individual should be sought before breaching confidentiality.
- b) If the Police state in their request that telling the individual about the disclosure would undermine the purpose of the disclosure, then it may be reasonable not to advise the individual. If the patient is the alleged offender and already in custody it is likely there will be no reason to prevent telling them about the request.
- c) If providing the information will help the Police with a serious crime such as murder, terrorism, safeguarding children or adults at risk of abuse or neglect, rape, kidnapping, gun or knife injuries, significant public health risks or significant risk to one or more individual. Here consider disclosing without advising the individual.
- d) If the patient is vulnerable and withholding information poses a serious risk to the patient, then you should consider providing the information. An example would be if the Police are searching for a missing elderly person who has dementia. In this situation it would be appropriate to share with the Police information if it would assist them in finding the individual.
- e) If providing the information would not help the police as set out in c) above, consider seeking explicit consent before disclosing the information. In this situation advise the Police of this option before contacting the individual data subject.

Version Control

Date	Version	Author	Change Details
16/09/2025	1.0	D Lowndes	New document.

Disclosing Information to the Police SOP V1.0

Appendix One - Application for Disclosure of Personal Information

1. Organisation Making Request	
Name of Organisation	
Name of Individual	
Proof of Identity of Individual	
Position or rank	
Address	
Telephone	
Email	
2. Data Subject	
Full Name	
Address	
Other identifying information	
3. Specific Information Required	
4. Reason for Disclosure including details of offences	
5. Statutory Powers	
6. Purpose – select one option	a) Prevention or detection of crime b) Apprehension or prosecution of offenders c) Assessment or collection of tax or duty or an imposition of a similar nature
7. How would not providing the information prejudice the stated purpose?	

Disclosing Information to the Police SOP V1.0

8.What secure method of transfer of the information is to be used?	a) Collection in person. This will require proof of identification b)Electronically by secure email. Please provide details.
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Declaration and Authorisation

I certify that:

1. The information requested is compatible with the stated purpose (section 4) and will not be used in anyway incompatible with that purpose.
2. I understand that the information given on this form is correct.
3. I understand that if any information given on this form is incorrect, I may be committing an offence under Section 170 Data Protection Act 2018.

Signed

Date.....

Name

Rank or position