

Data Privacy Notice in relation to the Review into Southern Health NHS Foundation Trust

The Stage 2 Review into Southern Health NHS Foundation Trust (the Review) is an independent public investigation, commissioned by NHS Improvement.

The Review is chaired by Nigel Pascoe QC and supported by a Panel and Panel Secretary (Alice Scott). The Chair, Panel Secretary and NHS Improvement are data controllers for your personal information.

The scope and terms of reference of the Review are set out in the accompanying document.

The purpose of this privacy notice is to set out how the Review will use your personal data; who it may be shared with; and your rights. It is made under Articles 13 and/or 14 and Article 30 of the General Data Protection Regulation (GDPR).

What data the Review needs to collect, and the legal basis for processing it:

Purposes of data collection

The purposes for which the Review collects and processes your personal data are the effective conduct of the Review into the quality of investigations and care provided by Southern Health NHS Foundation Trust, following a number of failings in investigations and care provided by the trust as identified in the [Stage 1 Report](#) by Mr Nigel Pascoe QC as published by NHS Improvement.

The Review commissioned by NHS Improvement (Monitor) under its functions and powers under the Health and Social Care Act 2012, specifically under s. 62 of the Health and Social Care Act 2012.

The Review is investigating the matters set out in its Terms of Reference, as commissioned by NHS Improvement. The Review must process personal information for the purposes of its investigations and to enable it to carry out its work, including the conduct of the hearings.

Such hearings, except in circumstances determined by the Panel, will be held in public and so evidence (including participants' personal data) referred to at hearings may become publicly available.

Personal information is used by the Review in a number of ways – for example, to gather evidence as part of the Review's investigation, to facilitate access to the Review, to enable participants to give evidence and to communicate with you and keep you updated on the progress of the Review. Personal information may also be contained in the Report of the Review, which will be published by NHS Improvement.

Personal information may also be used by the Review to comply with the law and with contracts that have been entered into to support the Review, including those with the Panel Members.

Data collected

Personal data is collected, recorded and organised by the Chair and Panel Secretary (with support from NHS Improvement). Typically data will be requested by the Panel from relevant individuals or organisations or submitted voluntarily, for example in a statement

Personal data processed by the Review can therefore comprise the personal data of:

- Members of the public, including the family members who form part of the Review;
- Participants, such as staff at the trust, West Hampshire CCG, other NHS organisations;
- Other participants providing evidence to the Review, such as service users of the trust who volunteer evidence;
- Contracted parties to the Review, including Panel Members.

The following is a non-exhaustive list of categories of personal data that will be processed in relation to the Review's core function:

- Personal data – typically biographical data such as name, date of birth, personal description, contact details, images and voice recordings.
- Special category data – this will typically include data relating to health.

The Review keeps your data secure and only shares it with those who are required to see it as part of the process of the Review. All personal information received handled fairly and lawfully in accordance with data protection legislation.

Typically, personal data is held in digital format in IT systems which meet NHS security standards.

Legal basis

1. Non-special category personal data

For data which does not fall within the definition of special category data (see below), the Review will rely on the legal basis described below for processing. When processing your personal data, the Review will, at all times, consider whether the processing or disclosure of such data is necessary for the Review proceedings and functioning:

Core function of the Review:

- (a) The primary legal basis relied on by NHS Improvement for lawful processing by the Review of personal data is Article 6 (1) (e) GDPR, processing that is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller. It is within NHS Improvement's (Monitor's) public task and functions to commission and support

such an investigation under its powers, duties and functions in the Health and Social Care Act 2012.

(b) The primary legal basis relied on by the Review Panel (including the Chair) and the Panel Secretary for lawful processing by the Review Panel of personal data is Article 6 (1) (f) GDPR, processing that is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child. the interest in supporting a public body in carrying out its functions of ensuring improvement within a foundation trust. It is necessary for the Review Panel and Panel Secretary to process data for the legitimate interest in supporting a public body in carrying out its functions of ensuring improvement within a foundation trust and in providing the services contracted for. There is a legitimate public interest in ensuring that failings in care and the quality of investigations and complaints handling carried out by NHS healthcare providers are identified and improvements made in the delivery of those services and investigations / complaints handling, and towards achieving continual overall improvement in patient safety both at a local level and for the wider NHS.

(c) In respect of material provided to the Review (in particular, by members of the public and service users of the trust) where you as the data subject have given consent to the processing, Article 6 (1) (a) GDPR will also apply.

Contracts

For providers of services to the Review, the primary legal basis for processing your personal data will be that it is necessary for the performance of a contract to which you are a party.

2. Special category personal data

Special category, or sensitive, data is personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic or biometric data (where used for identification purposes), data concerning health or data concerning an individual's sex life or sexual orientation.

Processing by the Review potentially extends to all types of special category personal data, but most typically will involve information relating to health.

In addition to the legal bases for processing personal data generally, outlined above, the legal bases for processing sensitive personal data pursuant to Article 9 GDPR, read together with s. 10 of the Data Protection Act 2018, are:

In respect of NHS Improvement:

- that processing is necessary for reasons of substantial public interest, including the exercise of a function conferred by an enactment/rule of law, to the extent that it is necessary;

- that processing is necessary for the purposes of the management of health or social care systems;
- that processing is necessary for reasons of public interest in the area of public health, such as ensuring high standards of quality and safety of health care;

and in respect of the Review Panel:

- that the consent of the data subject (where applicable) has been obtained.

Who we share your data with and why

As the Review is publicly accessible, your personal data (including the email address that you use to join the online video hearing), may be shared with anyone following the hearings, including the press, when given in evidence. There are processes, including redactions processes, in place which govern the protection of your personal data. This is to ensure that - save where consent is provided by you, the data subject - only data necessary for the Review Panel's performance of its functions will be disclosed outside the Review or to those instructed by the Review Panel.

During the course of the Review, your data may be shared by the Review with the following main groups:

- Participants in the Review, including Southern Health NHS Foundation Trust, West Hampshire CCG, other NHS organisations, the family members who form part of the Review, service users who participate in the Review hearings
- Experts appointed by the Review Panel
- Members of the Review Panel (once appointed)
- NHS England and NHS Improvement, through their provision of IT services
- Third party data processors (such as providers of IT infrastructure or services)
- The public via the Review hearings or the published report by NHS Improvement

The majority of personal data submitted to the Review Panel will be uploaded to and transferred to IT systems operated by 3rd party Data Processors for the purposes of storing, reviewing and analysing documents and information.

The Review Panel and NHS Improvement have appropriate measures in place with its data processors, which means they cannot do anything with your personal information unless the Review Panel or NHS Improvement has instructed them to do it. They will not share your personal information with any organisation apart from the Review Panel or NHS Improvement, or as directed by the Review Panel or NHS Improvement. They will hold your data securely and retain it for the period the Review requires.

At the conclusion of the Review, data that is to be retained will be stored by NHS Improvement, the Chair and Panel Secretary as appropriate and in accordance with

their record retention policies, although any personal data included will continue to be protected.

We may also share data where we are under a legal obligation to do so, or where it is necessary to assist with a criminal investigation.

How long will the Review keep your data for?

Personal data will be held by the Review Panel until the conclusion of the Review (namely publication of the report). At the end of the Review, personal data held by the Panel Members other than the Chair and Panel Secretary will be destroyed. Personal data held by the Chair, Panel Secretary and NHS Improvement will be stored in accordance with their local data retention policies.

Your rights

- You have the right to request information about how your personal data is processed, and to request a copy of that personal data.
- You have the right to request that any inaccuracies in your personal data are rectified without delay.
- You have the right to request that any incomplete personal data is completed, including by means of a supplementary statement.
- You have the right to request that your personal data is erased if there is no longer a justification for them to be processed.
- You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.
- Where we are relying on your consent, you have the right to withdraw consent to the processing of your personal data at any time.
- If we are not relying on your consent, you may have the right to object to the processing of your personal data. Any objections will be considered in the context of the Review Panel's duties and NHS Improvement's functions and the necessity of processing personal data for that purpose.
- Where we are relying on your consent, or a contract with you, you have the right to request a copy of any personal data you have provided, and for this to be provided in a structured, commonly used and machine-readable format.

The rights and obligations set out in this Notice may be subject to exemptions or limitations, to the extent authorised by the GDPR and the Data Protection Act 2018 to be applied on a case-by-case basis.

International transfers

As your personal data is stored on our IT infrastructure, and shared with our data processors, it may be transferred and stored securely outside the European Union. Where that is the case it will be subject to equivalent legal protection through the use of Model Contract Clauses.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF
Tel: 0303 123 1113
Email: casework@ico.org.uk.

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller determines the purposes and means of processing personal data.

The Chair and Panel Secretary are the lead data controllers for your personal data. NHS Improvement acts as a joint data controller through provision of IT infrastructure services and as the publisher of the report, but its role is limited.

The Panel Secretary and Chair can be contacted at: a.scott@pumpcourtchambers.com, Alice Scott, 3 Pump Court Chambers, Temple, London, EC4Y 7AJ

NHS England & NHS Improvement data protection officer may be contacted at: england.dpo@nhs.net or at Carol Mitchell, Head of Corporate Information Governance and Data Protection Officer, NHS England & NHS Improvement, Quarry House, Quarry Hill, Leeds, LS2 7UE

Review of this notice

This notice will be regularly reviewed and may be subject to revision.