



# HARTLEPOOL BOROUGH COUNCIL

## PRIVACY NOTICE FOR ADULT SOCIAL CARE – SERVICE RELATED INFORMATION

### **What is the purpose of this document?**

Hartlepool Borough Council (HBC) is committed to protecting the privacy and security of your personal information.

This privacy notice is issued in accordance with the General Data Protection Regulation (GDPR) and describes how we collect and use personal information about you to support the delivery, maintenance and review of services in Adult Social Care (ASC).

This notice applies to information we hold about you.

We may update this notice at any time.

It is important that you read this notice, together with any other privacy notice we may provide on specific occasions when we are collecting or processing personal information about you, so that you are aware of how and why we are using such information.

### **The Data Protection Legislation**

We will comply with data protection law which includes the GDPR and the Data Protection Act 2018 which states that the personal information we hold about you must be:

1. Used lawfully, fairly and in a transparent way.
2. Collected only for valid purposes that we have clearly explained to you and not used in any way that is incompatible with those purposes.
3. Relevant to the purposes we have told you about and limited only to those purposes.
4. Accurate and kept up to date.
5. Kept only as long as necessary for the purposes we have told you about.
6. Kept securely.

No personal information held by us will be processed unless the requirements of the Data Protection legislation for fair and lawful processing can be met.

## Who is the Data Controller?

HBC is a “data controller”. This means that we are responsible for deciding how we hold and use personal information about you. We are required under data protection legislation to notify you of the information contained in this privacy notice.

## Who is the Data Protection Officer?

We have appointed a data protection officer (DPO) to oversee compliance with this privacy notice. If you have any questions about this notice or how we handle your personal information, please contact the DPO:

Hayley Martin, Head of Legal Services (Place)  
Hartlepool Borough Council  
Civic Centre  
Hartlepool  
TS24 8AY

[dataprotection@hartlepool.gov.uk](mailto:dataprotection@hartlepool.gov.uk)

You have the right to make a complaint at any time to the Information Commissioner’s Office (ICO), the UK supervisory authority for data protection issues.

## 1. What kind of information we hold about you?

### 1.1 Personal Information

Personal data, or personal information, means any information about an individual from which that person can be identified. It does not include data where the identity has been removed (anonymous data).

There are “special categories” of more sensitive personal data which require a higher level of protection.

### 1.2 How we use particularly sensitive information

“Special categories” of particularly sensitive personal information require higher levels of protection. We need to have further justification for collecting, storing and using this type of personal information. We may process special categories of personal information in the following circumstances:

1. In limited circumstances, with your explicit written consent.
2. Where we need to carry out our legal obligations and in line with our data protection policy.
3. Where it is needed in the public interest

Less commonly, we may process this type of information where it is needed in relation to legal claims or where it is needed to protect your interests (or someone else’s interests) and you are not capable of giving your consent, or where you have already made the information public.

## **2. HBC's Obligations**

### **2.1 What are HBC's obligations?**

We will collect, store, and use the following categories of personal information about you:

- Your name, social care ID and NHS number.
- Contact details such as address, telephone numbers and e-mail address.
- Personal details such as Date of Birth, Gender, working details.
- Personal circumstances of the client, including physical & physiological issues, mobility issues, communication needs, meals & nutrition,
- Details of social support including carers, next of kin and supporting family members & friends.
- Details of service being provided, including type of service (including Home care, Equipment & Adaptations, Day care, Extra care, Residential or Nursing care etc), start & end date, amount of personal budget (if applicable), cost including amount of Direct Payments (if applicable), care provider, nature of service and volume (such as number of hours, sessions etc).
- Capacity issues of the client.

We may also collect, store and use the following "special categories" of more sensitive personal information:

- Information about your health (including any medical conditions and medication) in order to ensure that your needs are met (as far as possible) when delivering care and support.

We will process your special category data based on the following:-

- Health and Social Care - we use it for the provision of health or social care or treatment or the management of health or social care systems and services

### **2.2 How is your personal information collected?**

We collect personal information by face to face contact with clients and their carer's, through health contacts and other individuals or organisations through the assessment and support planning process - this can also be via email and telephone.

### **2.3 How we will use information about you?**

We will only use your personal information when the law allows us to. Most commonly, we will use your personal information in the following circumstances:

- where the processing is necessary for us to comply with the law (LAW) e.g. Care Act 2014, National Fraud Initiative (NFI) and other audits. Full range of social care related legislation is shown below:

Care Quality Commission (Registration Regulations) 2009 [SI 2009/3112] regulation 10
Carers (Recognition and Services) Act 1995 s1
Carers and Disabled Children Act 2000 s1, s2, s6A
Chronically Sick and Disabled Persons Act 1970 s.1, s, 2
Community Care (Delayed Discharges etc) Act 2003 - section 4, section 6
Community Care, Services for Carers and Children's Services (Direct Payments) England Regs 2009
Delayed Discharges (England) Regs 2003
Disabled Persons (Services, Consultation and Representation) Act 1986 s2, s3, s4, s7, s8
Health and Social Care Act 2008 section 50, 53, 54, 62, 63, 64, 85
Local Authority Social Services Act 1970 (LASSA) s. 7, s.7A
Local Authority Social Services and NHS Complaints (England ) Regs 2009
Mental Capacity Act 2005 & Mental Capacity Act 2005 (Independent Mental Capacity Advocates) (General) Regulations 2006, Regulation 5
National Assistance (Assessment of Resources) Regulations 1992
National Assistance Act 1948 (NAA) s.21, s.22, s.48
NHS Act 2006 s.74, s.82
NHS and Community Care Act 1990 s.46, s.47
Ordinary Residence Disputes (National Assistance Act 1948) Directions 2010

- where the processing is necessary for us to perform a task in the public interest or for our official functions, and the task or function has a clear basis in law namely the Acts above. (PUBLIC TASK).

We may also use your personal information in the following situations, which are likely to be rare:

- where the processing is necessary to protect someone's life. (VITAL INTERESTS)

## 2.4 Situations in which we will use your personal information

We need all the categories of information in the list above (see ***What kind of information we hold about you?*** above) primarily to allow us to undertake our statutory function, public task or as part of a contract we have with you to provide support, i.e.

1	To provide services to individuals pending the outcome of an ordinary residence dispute.
2	To make direct payments in some cases. Power to make direct payments in other cases.
3	Duties in relation to complaints made on or after 1st April 2009 in relation to social services.
4	Duty on local authority to provide CQC (CQC) with explanation of a relevant matter where so requested by CQC.
5	Power of CQC to serve notice on local authority where, following review by CQC, CQC is of the view that the LA is failing to discharge adult social services duties to acceptable standard.

	Implies duty on LA to comply with the requirements of such a notice.
6	Power of CQC to give advice to local authority about any inquiry to be held by the local authority into provision of adult social services -implied a duty on local authority to consider/comply with such advice.
7	Power of CQC to undertake studies designed to make recommendations for improving the management of an English local authority of its provision of adult social services - implied duty on local authority to consider such recommendations.
8	Power on CQC to enter and inspect inter alia any premises owned or controlled by local authority - section 63 provides that it is an offence to obstruct such inspection - so clear duty on local authority to cooperate
9	Supplementary provisions concerning right of entry and inspection provided for in section 2 - duty on local authority to cooperate.
10	Power on CQC to require documents and information from inter alia local authority - failure to comply is offence.
11	Power for CQC to set fees for, inter alia, local authorities to pay - fee recoverable as civil debt if not paid.
12	Supply of goods and services by the local authority.
13	To cooperate with the National Health Service.
14	To carry out assessments and inform the National Health Service of decisions following receipt of a notice under section 2 of the Act.
15	To make delayed discharged payment in certain circumstances.
16	Contain details of the delayed discharges scheme including prescribing the amount Local Authorities are liable to pay.
17	Local Authorities to provide community equipment (aids and minor adaptations) service for intermediate care.
18	To assess carer's ability to provide care.
19	To decide whether to provide services to carer.
20	To inform carers of right to assessment.
21	To assess carer's ability to provide care.
22	Assessment of resources for purposes of paying residential accommodation charges under s22 NAA (National Assistance Act).
23	To prepare plans for community care services.
24	To assess needs for community care services.
25	To provide information and assistance to representative of disabled person.
26	To give disabled person or their representative the opportunity to make representations when needs are assessed.
27	To consider needs of disabled person under 1970 Act on request.
28	To assess needs of certain persons discharged from hospital.
29	To take into account abilities of carer.
30	To inform itself of number of persons to whom s.29 of National Assistance Act applies.
31	To provide welfare services in the exercise of functions under s.29.
32	To act under guidance of the Secretary of State.
33	To provide residential accommodation in some circumstances and power in others. (Determined in accordance with approvals and directions).
34	To recover charges in respect of residential accommodation.
35	To temporarily protect property of persons in hospital.
36	To act in accordance with directions from the Secretary of State.
37	The Local Authority must instruct an Independent Mental Capacity Act advocate (IMCA) under s.39 or 39A, C or D in certain circumstances. Where a person is detained in a care home, the supervisory body (SB) will be the LA (para 182 Sch A1). The amendment to section 35 makes local authorities, instead of the Secretary of State, responsible for making arrangements to enable independent mental capacity advocates to represent and support specified persons. The amendment to Schedule A1 removes references to Primary Care Trusts and Strategic Health Authorities and inserts references to a local authority as the supervisory body if the relevant

person is ordinarily resident in England.

The situations in which we will process your personal information are listed below.

<b><u>Reason for Processing</u></b>	<b><u>Legal Basis e.g. Public Task / Contract etc</u></b>
<ul style="list-style-type: none"><li>• Gathering information as part of the assessment and support planning process</li><li>• Create a support plan to outline agreed support approach</li><li>• Review the needs of the client</li></ul>	Legal Obligation/Public Task  Legal Obligation/Public Task  Legal Obligation/Public Task

Some of the above grounds for processing will overlap and there may be more than one ground which justifies our use of your personal information.

**2.5 What if I don't want to provide personal information?**

If you fail to provide certain information when requested, we may not be able to provide you with a suitable support plan outlining how your needs will be met or reviewed, or we may be prevented from complying with our statutory obligations.

**2.6 Change of purpose**

We will only use your personal information for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If we need to use your personal information for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so.

Please note that we may process your personal information without your knowledge or consent, in compliance with the above rules, where this is required or permitted by law.

**2.7 Does HBC need your consent?**

We do not need your consent if we use special categories of your personal information in accordance with our written policy to carry out our legal obligations or exercise specific rights as required by law. In limited circumstances, we may approach you for your written consent to allow us to process certain particularly sensitive data. If we do so, we will provide you with full details of the information that we would like and the reason we need it, so that you can carefully consider whether you wish to consent.

You will not be subject to decisions that will have a significant impact on you based solely on automated decision-making, unless we have a lawful basis for doing so and we have notified you.

We do not envisage that any decisions will be taken about you using automated means, however we will notify you in writing if this position changes.

### **3. Data Sharing**

We may have to share your data with third parties, including third-party service providers and other entities in the group.

We require third parties to respect the security of your data and to treat it in accordance with the law.

We will not transfer your personal information outside the EU.

#### **3.1 Why might you share my personal information with third parties?**

This authority/organisation is required by law to protect the public funds it administers. It may share information provided to it with other bodies responsible for; auditing, or administering public funds, or where undertaking a public function, in order to prevent and detect fraud. The Cabinet Office is responsible for carrying out data matching exercises. Further information can be found here [www.hartlepool.gov.uk/fair-processing-notice](http://www.hartlepool.gov.uk/fair-processing-notice).

We will share your personal information with third parties where required by law or where it is necessary to provide status updates to referring bodies. Examples of the organisations we may need to share information with are:

- Health services ,including Hospitals and GP's.
- Care Providers, including domiciliary or care home services etc.
- Housing providers.
- Emergency Duty Team (joint service covering out of hours social care).
- Cleveland Fire Service, e.g. as part of fire Safety checks.
- Cleveland Police.
- Voluntary agencies and other partner organisations.

Where the client has capacity to manage their own care and support, the client themselves will determine which family members and other personal relationships may receive shared information about their case, e.g. a mother may state that she does or does not want her daughter to receive any information about her case.

Where the client does not have capacity, a decision will be made in the best interests of the client who should receive information about the case – this could in certain circumstances result in cases being referred to the Court of Protection (via a social worker capacity assessment).

#### **3.2 Which third-parties process my personal information?**

"Third parties" includes third-party service providers (including contractors and designated agents). The following third-parties process personal information about you for the following purposes:

- **Northgate Public Services** – The Council's IT provider Northgate may have to access the system on occasions where there is a fault.
- **OLM and OCC** – Adult Social Care's IT Care Management system providers, who may have to access systems on occasions where there is a fault.
- **Care providers** - Adult Social Care's external providers, who may have to store and access information as part of the delivery of their service) on behalf of the council).
- **Specialist companies** who provide implementation and maintenance of Adult Social Care Equipment and Adaptations in client homes.
- **Cleveland Fire Service** – who receive information on individuals who require fire safety checks, and on completion update the client record and send back to Adult Social Care, confirming the safety check has been completed.

### **3.3 How secure is my information with third-party service providers?**

All our third-party service providers are required to take appropriate security measures to protect your personal information in line with our policies. We do not allow our third-party service providers to use your personal data for their own purposes. We only permit them to process your personal data for specified purposes and in accordance with our instructions.

## **4. Data Security**

We have put in place measures to protect the security of your information. Details of these measures are available upon request.

Third parties will only process your personal information on our instructions and where they have agreed to treat the information confidentially and to keep it secure

We have put in place appropriate security measures to prevent your personal information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. In addition, we limit access to your personal information to those employees, agents, contractors and other third parties who have a business need to know. They will only process your personal information on our instructions and they are subject to a duty of confidentiality. Details of these measures may be obtained from the Data Protection Officer.

We have put in place procedures to deal with any suspected data security breach and will notify you and any applicable regulator of a suspected breach where we are legally required to do so.

## **5. Data Retention**

### **5.1 How long will you use my information for?**

We will only retain your personal information for as long as necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements. Details of retention periods for different aspects of your personal information are available in our retention policy which is available from

[www.hartlepool.gov.uk/retention-schedules](http://www.hartlepool.gov.uk/retention-schedules). To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorised use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

In some circumstances we may anonymise your personal information so that it can no longer be associated with you, in which case we may use such information without further notice to you.

## **6. Rights of Access, Correction, Erasure and restriction**

### **6.1 Your duty to inform us of changes**

It is important that the personal information we hold about you is accurate and current. Please keep us informed if your personal information changes during your working relationship with us.

### **6.2 Your rights in connection with personal information**

Under certain circumstances, by law you have the right to:

- **Request access** to your personal information (commonly known as a “data subject access request”). This enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it.
- **Request correction** of the personal information that we hold about you. This enables you to have any incomplete or inaccurate information we hold about you corrected.
- **Request erasure** of your personal information. This enables you to ask us to delete or remove personal information where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal information where you have exercised your right to object to processing (see below).
- **Object to processing** of your personal information where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground. You also have the right to object where we are processing your personal information for direct marketing purposes.
- **Request the restriction of processing** of your personal information. This enables you to ask us to suspend the processing of personal information about you, for example if you want us to establish its accuracy or the reason for processing it.
- **Request the transfer** of your personal information to another party.

If you want to review, verify, correct or request erasure of your personal information, object to the processing of your personal data, or request that we transfer a copy of your personal information to another party, please contact the Data Protection Officer in writing.

For further information on your rights please visit: [www.hartlepool.gov.uk/GDPR](http://www.hartlepool.gov.uk/GDPR)

### **6.3 No fee usually required**

You will not have to pay a fee to access your personal information (or to exercise any of the other rights). However, we may charge a reasonable fee for photocopying.

### **6.4 What we may need from you**

We may need to request specific information from you to help us confirm your identity and ensure your right to access the information (or to exercise any of your other rights). This is another appropriate security measure to ensure that personal information is not disclosed to any person who has no right to receive it.

### **6.5 Right to withdraw consent**

In the limited circumstances where you may have provided your consent to the collection, processing and transfer of your personal information for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. To withdraw your consent, please contact the Data Protection Officer. Once we have received notification that you have withdrawn your consent, we will no longer process your information for the purpose or purposes you originally agreed to, unless we have another legitimate basis for doing so in law.

## **7. Changes to this Privacy Notice**

We reserve the right to update this privacy notice at any time, and we will provide you with a new privacy notice when we make any substantial updates. We may also notify you in other ways from time to time about the processing of your personal information.

**If you have any questions about this privacy notice, please contact the DPO.**