



Respite Harold's Cross  
Rehabilitation Blackrock  
Reassurance Wicklow

<b>TITLE: Data Protection Policy (General)</b>	<b>REF. NO: OLH-GN-038</b>
<b>AUTHOR:</b> Patricia Pierce, Data Protection Lead Ambit Compliance, Data Protection Officer (OLHDPO@ambitcompliance.ie)	<b>REVISION NO: 05</b>
<b>APPROVED BY: Audrey Houlihan</b>	<b>EFFECTIVE FROM:</b> August 2017
<b>REVIEW DATE: January 2023</b>	<b>Page 1 of 12</b>

**This policy should be read in conjunction with  
OLH-GN-095 Data Protection Policy (Personnel).**

TITLE: Data Protection Policy (General)

AREA: ALL AREAS

REFERENCE NO: OLH-GN-038

REVISION NO: 05

AUTHORS (OWNER): Patricia Pierce, Data Protection Lead

SIGNATURE:

DATE:

APPROVED BY: Audrey Houlihan, CEO

SIGNATURE:

DATE:

EFFECTIVE FROM: August 2016

REVIEWED DATE: January 2021

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## 1.0 Policy Purpose

To ensure that all personal data under the control of Our Lady's Hospice & Care Services (OLH&CS) is stored, processed and used in compliance with the Irish Data Protection Acts 1988 - 2018, and General Data Protection Regulation (GDPR) 2016/679.

OLH&CS must comply with all applicable data protection, privacy and security laws and regulations (collectively referred to as requirements) in the locations in which we operate (Harold's Cross, Blackrock, Wicklow). Through maintaining a high standard of data protection, OLH&CS wants to foster a culture that is honest, compassionate, transparent and accountable.

The objective of this Policy is to set out the requirements of OLH&CS relating to the protection of personal data where we act as a Data Controller and/or Data Processor, and the measures we will take to protect the rights of data subjects in line with EU and Irish legislation.

In the course of our work we are required to collect and use certain types of information about people (hereafter referred to as data subjects, in line with regulation), including 'personal data' as defined by the GDPR. This information can relate to patients, service users, current, past and prospective employees, suppliers and others with whom staff communicate. In addition, staff may occasionally be required to collect and use certain types of personal information to comply with the requirements of other legislation, for example, infectious diseases legislation and the National Cancer Registry.

## 2.0 Scope

This policy applies to all data subjects, whose data is held by OLH&CS (i.e. Patients / residents / family member / Board of Directors / staff / volunteers / contractors and authorised third party commercial service providers and other persons or entities when receiving, handling or processing personal data as defined by the GDPR.

OLH&CS is the Data Controller. Our registered address is Harolds Cross, Dublin 6W, D6W RY72.

## 3.0 Legal Basis for Processing

Under Data Protection Law we are required to have an appropriate basis for processing personal data and to advise our data subjects of what that basis is. The primary bases used by OLH&CS are:



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- Processing necessary for the performance of a contract (e.g. Employment contract) Article 6(1)(b) GDPR
- Processing 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 Article 6(1)(e)
- Processing is necessary for compliance with a legal obligation to which the controller is subject Article 6(1)(c);

Where data is collected outside of these bases; Legitimate Interest (Article 6(1)(f) or Article 6(1)(a) consent may be relied upon.

We process sensitive data based on one of the following conditions:

1. In the course of employee management as per Article 52 and Article 73, 1 (vii) of DPA 2018
2. For the purposes of ensuring high standards of quality and safety of healthcare and of medicinal products and medical devices per Article 53 (b) of the DPA 2018 (Ireland)
3. Explicit consent of the data subject.
4. For the establishment, exercise or defence of legal claims.
5. For the purposes of preventative or occupational medicine; for medical diagnosis; for the provision of medical care, treatment or social care; for the management of health or social care systems as per Article 52 of the DPA 2018 (Ireland)

For a full schedule of processing conducted, retention periods and who data is shared with, please go to our website: <https://olh.ie/data-protection-privacy-notice/>

#### **4.0 Definitions**

**OLH&CS** – Our Lady's Hospice and Care Services

Under the Acts, 'data' means information in a form in which it can be processed. Data in this context refers to both automatic and manually processed data.

Under legislation there are different classes of data. They include:

**Automated Data** – refers to information that is processed by means of equipment operating automatically

**Manual Data** – is defined as information that is recorded as part of a relevant filing system or with the intention that it should form a relevant filing system

**Personal Data** – means data relating to a living individual who can be identified either directly from the data or from other related information in the possession of the data controller.

**Sensitive Personal Data** – is defined in specific ways, such as:

- Racial or ethnic origin, political opinions of the data subject



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- Religious or philosophical beliefs of the data subject
- Trade union membership or affiliation of the data subject
- Physical, mental health or condition, sexual orientation of the data subject

## 5.0 Responsibilities

4.1 The Hospice, all its staff and agents who process or use personal information must ensure that they follow the Principles of Data Protection to all personal data held (Refer to section 5.1) and follow all of the appropriate policies and procedures.

4.2 The Data Protection Officer will handle any requests pertaining to personal data and ensure compliance with statutory regulations.  
([OLHDPO@ambitcompliance.ie](mailto:OLHDPO@ambitcompliance.ie)).

4.3 Adherence and overall responsibility for Data Protection practices at OLH&CS rests with senior management, the CEO and Board of Management.

## 6.0 Data Protection Principles

This document sets out to ensure compliance with GDPR under its six principles.  
These are:

### 1. Lawfulness, fairness and transparency

OLH&CS strives to ensure that data collection practices are in compliance with the law and that data subjects have a clear understanding of the data that is held and that this data is necessary for the provision of our services through the provision of a Privacy Statement available on the website / Intranet.

### 2. Purpose limitation

OLH&CS will only collect personal data for a specific purpose, and only collect data for as long as necessary to complete that purpose.  
Processing that's done for archiving purposes in the public interest or for scientific, historical or statistical purposes is given more freedom.

### 3. Data minimisation

OLH&CS will only process the personal data that it needs to achieve its processing purposes.



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#### **4. Accuracy**

The accuracy of personal data is integral to data protection. OLH&CS is committed to ensuring the accuracy of data and will erase or rectify data that is inaccurate or incomplete on verification. Individuals have the right to request that inaccurate or incomplete data be erased or rectified within 30 days, subject to verification.

#### **5. Storage limitation**

OLH&CS will delete personal data when it's no longer necessary. Retention periods for all documentation is available on the website / Intranet for information.

#### **6. Integrity and confidentiality**

OLH&CS ensures that personal data is processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

OLH&CS shall be responsible for, and be able to demonstrate compliance with these key principles (Principles of Accountability). In addition, OLH&CS will ensure that data subject's rights are protected as set out in GDPR.

#### **Adherence with these Principles**

OLH&CS, as Data Controller, shall be responsible for, and be able to demonstrate compliance with these GDPR requirements:

- We will process personal data in accordance with the rights of data subjects;
- We will communicate with data subjects in a concise, transparent, intelligible and easily accessible form, using clear language;
- We will only transfer personal data to Third Parties within Ireland and outside of the European Economic Areas (EEA) in accordance with this policy;
- We shall conduct all personal data processing in accordance with legitimate GDPR based processing conditions, in particular –
  - Data subject consent for one or more specific purposes not covered under the processing of special categories of personal data
  - Or Necessary processing for contract performance or contract entry
  - Or Legal obligation underpinning processing.

#### **7.0 The Personal Data we Process**

Personal data, as defined by the GDPR is any information which can by reference directly or indirectly identify a person, and include such data as name, date of birth, address.



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## **8.0 Special Categories of Data**

Special categories of data are defined by the GDPR and processed by the Hospice include data such as racial or ethnic origin, religious or philosophical beliefs, health data, sex life details and sexual orientation.

## **9.0 Why we Process Personal Data**

OLH&CS collects personal data (i.e. Name / Address / Date of Birth / First Point of Contact) at point of contact for the following principal purposes:

- Patient care and treatment within the Hospice, First Point of Contact data for the purposes of updating on patient's condition and follow-up services such as Bereavement Counselling / Service evaluation.
- Patient care and treatment outside the Hospice, i.e. appropriate sharing of information in line with the flow of treatment with health professionals including other hospitals, general practitioners, community services.
- Clinical education within the Hospice (e.g. Students who are part of a patient's treatment team).
- Internal Audit for the purpose of efficient and effective running of the Hospice services
- Performance and compliance of a contract
- Administration, including personnel staff records.
- Fundraising activities.

## **10.0 How we collect Personal Data**

We may collect your data in a variety of ways. The majority of data we collected will be provided directly by you. Other data may be obtained through third parties for example, GPs, Public Health Nurses, Consultants, Family, Next of Kin.

## **11.0 Unauthorised Disclosure**

All persons covered under this policy are prohibited from disclosing a data subject's confidential information (including personal data or special categories of personal data), unless this policy or a legal basis allows for such disclosure.

All persons covered under this policy must report all suspected incidents of unauthorised access to the DPO Lead. Incidents include disclosure, loss, destruction or alteration of patient and service user's personal information, regardless of whether it is in paper or electronic form.



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### **12.0 Transfers outside of the EEA**

OLH&CS must not transfer personal data to a Third Party outside of the EEA regardless of whether OLH&CS is acting as a Data Controller or Data Processor, unless:

- The EU recognises the transfer country/territory as having an adequate level of data subject legal protection relating to personal data processing, or
- The EU recognises the transfer mechanism as providing adequate protection when made to countries/territories lacking adequate legal protection.
- The explicit consent of the data subject is required to allow Third Party transfer or transfer is authorised by law.
- All reasonable, appropriate and necessary steps have been taken to maintain the required level of Personal Data Protection; and

### **13.0 Third Parties with whom we share Personal Data**

Where OLH&CS engages a Third Party for processing activities, this Data Processor must protect personal data through sufficient technical and organisational security measures and take all reasonable GDPR compliance steps.

When engaging a Third Party for personal data processing, OLH&CS must enter into a written contract, or equivalent. This contract or equivalent shall:

- Clearly set out respective parties responsibilities
- Must ensure compliance with relevant European and local Member State Data Protection requirements
- At the expiry of a data processor contract, the data processor is contractually obliged to return the full dataset to OLH&CS and provide unequivocal evidence that their copy of the dataset is erased.

OLH&CS must ensure that all Third Party relationships are established and maintained. Data processors who are processing data on behalf of OLH&CS must secure approval from OLH&CS if they wish to engage further data processors.

The Third Party is entered into OLH&CS's register of data processors, available on the Internet / Intranet.

### **14.0 Other Data Sharing**

OLH&CS is legally required to make specific information available to third parties in circumstances such as reporting of notifiable diseases / events; incidence of cancer to the National Cancer Registry; risk events to the Clinical Indemnity Scheme / Coroner's Office. Anonymised data is provided to other health care agencies such as the Department of Health, the health Services Executive (HSE), Health Information & Quality Authority (HIQA) and the Economic & Social Research Institute (ESRI) for research and data analysis purposes. In instances where identifiable information on an individual is required to be shared with third parties for reasons other than those listed above,



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consent will be obtained before the sharing takes place, unless disclosure would prejudice criminal enquiries or proceedings. OLH&CS will ensure that the consent is informed and voluntary.

In exceptional circumstances we may need to report your personal data to a third party without your consent. This is in line with our legal obligation to comply with the Health and Social Care Professionals Act 2005, Children First Act 2015, Criminal Justice Act 2011 & 2012 or the Criminal Law (Sexual Offences) Act 2017, if there is a concern that:

- A child is being neglected or experiencing physical or sexual abuse.
- An individual was sexually abused in the past and there may still be a current risk to children from the alleged perpetrator.
- An individual reveals a suicide plan.
- An individual is at risk of harming themselves or somebody else
- An individual has committed a serious criminal offence in the past or are planning to do so in the future (Criminal Justice Act 2011), again, this is a legal obligation.

In these circumstances, OLH&CS will not do anything without first speaking with the individual and agreeing, in so far as it is possible, on a course of action.

## **15.0 Research**

The management of personal data obtained for the purpose of Research/Clinical Trials is the responsibility of the project's Principal Investigator. The Investigator must obtain approval from OLH&CS Education & Research Committee, along with Ethical approval from a recognised University/Hospital, in which they undertake to adhere to the data management requirements of the Hospice's Research Policy. The organisation complies with the Data Protection Act 2018 (Section 36(2)) (Health Research) Regulations 2018.

## **16.0 CCTV**

The use of Closed Circuit Television (CCTV) at OLH&CS is part of the operational system for security. The appropriateness of using CCTV on the premises was assessed as part of the commissioning process and was informed by historical experience. The purpose of this system is to prevent crime and promote staff security and public safety.

(Please refer to CCTV Policy: OLH-GN-045 for further information)

## **17.0 Retention of Data**

In a health care environment data can often be required after a considerable time lapse and therefore the routine period is lengthy. OLH&CS will, with due



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regard to the needs of the individual and the Hospice, retain information for no longer than is necessary in accordance with the relevant retention periods and thereafter will ensure of its safe disposal.

CCTV images are retained for a maximum of 28 days on each digital recording system, unless reproduced for the purposes for which they were intended

Personal data will be stored in accordance with OLH&CS retention schedule.  
(Refer to: <https://olh.ie/wp-content/uploads/2020/05/Data-Processing-Patients-Public-updated-15.05.20.pdf>)

### **18.0 Data Security**

The need to ensure that data is kept securely means that precautions must be taken against physical damage or loss, and the access and disclosure must be restricted. Employees' level of access to personal data is in line with the requirements of their role within the organisation.

All staff are responsible for ensuring that:

They avail of Data Protection Training on the OLIVE system;  
Any personal data which they hold is kept securely (Refer to Policies OLH-GN-069 / OLH-GN-037 / OLH-GN-074);

ICT ensure security of data through the enforcement of password use, restricted access controls, encryption of devices, and installation of security such as firewall.

All OLH&CS staff must familiarise themselves with the up-to-date information security policies which are available on the Intranet

### **19.0 Data Subjects Rights**

Data subjects will be able to request access to data we hold on them through a Subject Access Request (SAR) (Right of Access);  
Data subjects can request to change or correct any inaccurate data (right to Rectification);  
Data subjects have the right to object to having their data processed (Right to Restriction of Processing);  
Data subjects can request to delete data that we hold, excluding medical records (Right to Erasure)  
Data subjects can object to a decision made by automated processing, with certain limited exceptions (such as legitimate grounds for the processing or the defence of legal claims)



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and request that any decision made by automated processes have some human element (Right to Object to Automated Decision Making, including Profiling).

## **20.0 References & Further Information**

OLH-GN-069 Acceptable Use Policy  
OLH-GN-037 Confidentiality of Personal Information  
OLH-GN-074 Encryption Policy  
OLH-GN-045 Policy on Closed Circuit Television  
OLH-GN-093 Subject Access Request Policy  
OLH-GN-095 Data Protection Policy (Personnel)

Irish Data Protection Acts 1988 - 2018  
General Data Protection Regulation 2016/679

OLH&CS Data Protection Lead: [ppierce@olh.ie](mailto:ppierce@olh.ie)  
OLH&CS Data Protection Officer: [OLHDPO@ambitcompliance.ie](mailto:OLHDPO@ambitcompliance.ie)

### Data Protection Commissioner

The Commissioner is appointed by the Government and is independent in the exercise of his/her functions. They can be contacted at:  
Canal House, Station Road, Portarlinton, Co. Laois;  
Phone: 1 890 252231 or [www.dataprotection.ie](http://www.dataprotection.ie).