Statement of the Public Interest in Use of Confidential Information by Public Health Scotland (PHS) under the Common Law Duty of Confidentiality

Public Health Scotland (PHS) has statutory roles which are described in the Statement of Public Task and in the PHS Privacy Notice. In fulfilling these roles, PHS uses confidential patient health and care information for purposes other than individual patient or social care. In doing so, PHS has to abide by the Common Law Duty of Confidentiality, as well as Data Protection law and other legal provisions.

The Common Law Duty of Confidentiality requires there to be a lawful basis for the use or disclosure of personal information that is held in confidence. The circumstances that provide a lawful basis are:

- The person whose information is to be used has given their consent
- There is a statutory basis or legal requirement, such as an order from a court
- It is necessary to safeguard the person concerned or another individual
- There is an overriding public interest in the use of the information

When PHS uses confidential health and care information for purposes other than individual care, it does so on the grounds of public interest under the Common Law Duty of Confidentiality. Examples of public interest purposes for using information in this way include:

- Using information from national clinical audits to improve the quality and safety of health and care services
- Using information about vaccination and prescribing to monitor the effectiveness of vaccination programmes and monitor patient safety, and efficient and effective prescribing, as well as support medicines evaluation
- To support the work of NSS counter fraud services and ensure public money is being used properly
To provide evidence for planning services for groups of people with complex health and care needs

For research to inform new developments and for the effective management and planning of health and care services.

PHS uses de-personalised information whenever this is sufficient to allow its staff to undertake their work. When PHS needs to use potentially identifiable or confidential information to undertake work in the public interest, authorised employees who are given time-limited access to the data follow strict procedures to protect confidentiality and privacy.

Our clinical topic experts, Caldicott Guardian and data protection team are available to provide specific advice. The initial point of contact is phs.dataprotection@nhs.net.

01 April 2020