

## National Data Opt-Out Policy

### Policy Statement

This care service complies with the National Data Opt-Out Policy, which came into force from 31 July 2022 for all regulated social care providers in England.

Cornwallis care Service's policy is to comply with these requirements, enabling people who use services to opt out from the use of their data for anything other than their individual care and treatment, for example research or planning purposes. This is in line with the recommendations from the 2018 National Data Guardian in Review of Data Security, Consent and Opt-Outs.

The term "confidential patient information" is used as a legal term in the NHS where the opt-out is already in force. In this context "confidential patient information" relates to information about individuals' health or social care that may identify them.

The General Data Protection Regulation (GDPR) definition is that: "Personal data" means any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

CSSL has an obligation to be compliant by informing people receiving care about their right to choose to opt out of data sharing and provide information if required. It also meets other data protection requirements from national care standards and regulations on good governance of record keeping for purposes beyond direct care and records that are comprehensively fit for purpose and securely maintained.

The national care standard is as follows:

- England: Regulation 17: "Good Governance", of the Health and Social Care Act (Regulated Activities) Regulations 2014.

### National Data Opt-Out Policy

Under the [national data opt-out](#) everyone who uses publicly-funded health and/or care services can prevent health and care organisations sharing "confidential patient information" with other organisations if it is not about managing or delivering individual care.

For example, if data is used for research or planning purposes, or sent to university and hospital researchers, medical royal colleges, pharmaceutical companies researching new treatments.

If confidential patient information is used for research or planning purposes and this processing relies upon Regulation 5 of the COPI Regulations 2002, this organisation recognises the opt-out does apply.

Where care services are involved in research with universities, they will liaise with their academic partners and follow Health Research Authority guidance, [Social Care Research](#).

### **Complying with Data Opt-Out Choices**

CSSL's policy is that all the information received about or from person who uses services is confidential and that only those who need to know the information will have access to it. The service will always seek the written permission of its users prior to sharing personal information about them with anyone else, for purposes other than direct care.

To comply with national data opt-out, this care service has procedures in place to review use or disclosure of confidential patient information and is transparent with the information it handles as to how and when individuals' preference for data opt-out has been applied.

If the person is unable to give their consent, a decision will be taken in line with "best interests" procedures set by the Mental Capacity Act 2005. In these circumstances, someone else can set an opt-out choice on behalf of a person who uses services, by proxy, if they have a formal legal relationship with the person, for example they have lasting power of attorney (LPA) or are a court-appointed deputy.

Information is available on request from the registered manager for people who use services, next of kin or LPA.

### **How People Receiving Care Can Opt Out**

As national data opt-outs are set or changed by individuals themselves, this must be done by the person receiving care or someone legally able to act on their behalf.

For people receiving care who do not wish their information shared for research and planning purposes, they can opt out online at <https://your-data-matters.service.nhs.uk> or by phone: 0300 303 5678 — NHS Digital Contact Centre.

To opt out by post on behalf of a person receiving care a form can be downloaded and printed off: NHS Data Opt-Out. It can only be done by an individual who holds an LPA.

If people receiving care are happy for information to be shared, they do not need to do anything.

### **Policy Statement**

CSSL is satisfying obligations to make provision to inform people receiving care of compliance with the national data opt-out policy.

CCSL does not share people's information with any pharmaceutical, medical or other researchers and we do not use sensitive information for purposes beyond an individual's care and treatment.

This care service will keep a record and comply with data opt-out decisions, but people receiving care can change their mind at any time.

This will not affect individual care provision, nor how this care service shares information with other organisations specifically to arrange and manage individuals' personal care.

It will also not apply if people receiving care have given explicit consent to share information or if such information is appropriately anonymised.

This organisation reviews all of our data processing on an annual basis to assess if the national data opt-out applies. This is recorded in our Record of Processing Activities. All new processing is assessed to see if the national data opt-out applies.

If any data processing falls within scope of the National Data Opt-Out, we use the [Messaging Exchange for Social Care and Health](#) (MESH) system to check if any of people receiving care have opted out of their data being used for this purpose.

CCSL is aware that national data opt-out requirements have been waived by the Secretary of State for Health and Care for invoice validation purposes. Any payment flows not reliant on Regulation 5 support are not included.

Data submitted to the Capacity Tracker as outlined in DHSC: is also not in scope of the national data opt-out.

CCSL proves compliance by publishing their Privacy Notice and submitting their Data Security and Protection Toolkit Assessment.

Should use of confidential patient data change in the future, this policy will be amended and procedures will be brought in line with those used nationally. In the event of any such change, this will be publicised internally, within the care service and via our website.

This care service will:

- provide people receiving care and their next of kin or LPA with information regarding national data opt-out
- respect, implement and record decisions made regarding national data opt-out
- provide the necessary organisation, expertise and resource to ensure effective management of data safety compliance throughout the care service
- review and revise this policy as necessary at regular intervals, and inform people receiving care of any changes that affect them.

### **Training**

- New staff are required to read and understand the policies on confidentiality, data protection and data opt-out as part of their induction.
- All staff receive training on confidentiality, data protection and access to records policies.
- Training in the correct method for entering information in people's records is given to all care staff.
- The nominated data user/data controller for the service is trained appropriately in the GDPR and Data Protection Act 2018.
- All staff who use the computer system are thoroughly trained in its use.

### **Other Legal Requirements**

This care service complies with all relevant regulations and legislation relating to people receiving care, including:

- The General Data Protection Regulation (GDPR) and Data Protection Act 2018
- Human Rights Act 1998
- Access to Health Records Act 1990.

Signed: Nicola Hemsley, Operations Director

Review Date: October 2025

Next Review Date: October 2027