

## **Update on NHS England's Data Opt Out Service (10/06/2021)**

The Scottish Government, NHS Scotland, Fife Health Board and Pitcairn Practice take patient confidentiality extremely seriously and safeguards are in place to protect this, including when data is used for research.

### **The national data opt-out policy applies to NHS England and not to NHS Scotland's data.**

The national data opt-out policy applies to NHS England, and not NHS Scotland's data. In England, there is legislation by which personal identifiable data, which would otherwise be subject to the Duty of Confidentiality, can be used for research purposes by default. In Scotland, personal identifiable data subject to the Duty of Confidentiality is not used for research by default. Any use of personal data for research purposes is subject to rigorous scrutiny on a case by case basis and evidence that the data is used fairly, lawfully and securely. As such, when processing relies on permission from the individual, Scotland operates under an opt-in model. The Scottish Government is committed to working with other relevant health services in the United Kingdom to plan and deliver services that meet the needs of the Scottish population. NHS Scotland may share the necessary information across a range of health services in England; this occurs on a case-by-case basis, and is subject to Data Protection Impact Assessments and specific Information Sharing Agreements between the relevant parties. Ultimately, Scottish data is **not** subject to England's opt-out policy.

However, if you previously resided in England, and used NHS England services during that period, you will have the opportunity to opt-out by the September 1<sup>st</sup> 2021 deadline. More information on this is available on the NHS Digital website: <https://digital.nhs.uk/services/national-data-opt-out>.

In relation to data being sold/given to third parties, there are strict rules in place to protect patient rights and patient data. Although some aspects of NHS care may be done by contractors, this work is carried out under the umbrella, and in the employ of, the NHS. Any data sharing is bound by the Data Protection Act (2018), and the Scottish Information Sharing (IS)

Toolkit: <https://www.informationgovernance.scot.nhs.uk/is-toolkit/>.

In the case of data being used for other purposes, such as medical research, there is a robust process for requests in Scotland that deal with patient privacy and security issues. This is managed by the Public Benefit and Privacy Panel for Health and Social Care <http://www.informationgovernance.scot.nhs.uk/pbpphsc/>. Where this occurs, it is subjected to strict proportionality, minimisation and anonymisation principles, in line with ICO guidance. It is also accompanied by information on transparency arrangements to allow patients to understand how/why this takes place, and highlight any opportunities to opt-out. To be clear, most medical research is carried out in partnership with NHS Scotland, and the results of that research lead to better clinical decision-making. NHS Scotland has well established processes for ensuring that individual requests for research are diligently scrutinised.

For further information on this matter, please contact the Data Protection Officer for NHS Fife, who should be able to advise you further. They can be contacted via email at [Fife-UHB.DataProtection@nhs.scot](mailto:Fife-UHB.DataProtection@nhs.scot)

**Further information on how NHS Scotland handles your personal information on the NHS Inform website:** [How the NHS handles your personal health information | NHS inform](#).