



**The Clatterbridge
Cancer Centre**
NHS Foundation Trust

Clatterbridge Road
Bebington
Wirral
CH63 4JY

Tel: 0151 556 5000
Web: www.clatterbridgecc.nhs.uk

Date: 5 July 2019

Re: Freedom of Information Request
Ref: 175- 2019

Thank you for your email dated 1st July 2019 requesting information regarding appointments and / or consultations that are held in private settings.

The information that you require is as follows:

- 1. Does your Trust allow patients and / or their nominated representatives to make audio recordings of their appointments and / or consultations with a member of staff when they ask the staff member if it is acceptable to do so?**

Yes - The Trust does allow patients and / or their nominated representatives to make audio recordings of their appointments and / or consultations with a member of staff. Patient recordings which are made either covertly or overtly in order to keep a personal record of what was said are deemed to constitute personal 'note taking' and are therefore permissible.

2. **Could you please provide the name(s) of the policy / policies and a copy of the specific section of the policy / policies that is used to inform staff of the policy / policies when a patient and / or their nominated representatives requests to audio record their appointment / consultation?**

An NHS Protect policy called “Patients recording NHS staff in health and social care settings”:

Overt patient recordings

Although we cannot place restrictions on a patient wishing to record notes of a consultation or conversation with a health professional, where it is felt absolutely necessary by the patient to do so, we should ensure that:

- any recording is done openly and honestly
- the recording process itself does not interfere with the consultation process or the treatment or care being administered
- the patient understands that a note will be made in their health record stating that they have recorded the consultation or care being provided
- the patient is reminded of the private and confidential nature of the recording and that it is their responsibility to keep it safe and secure
- any recording is only made for personal use
- patients are aware that the misuse of a recording may result in criminal or civil proceedings
- patients are discouraged from undertaking recordings in the first place, unless it is deemed absolutely necessary by highlighting the above responsibilities.

3. **Does your Trust allow patients and / or their nominated representatives to make video recordings of their appointments and / or consultations with a member of staff when they ask the staff member if it is acceptable to do so?**

Yes - The Trust does allow patients and / or their nominated representatives to make video recordings of their appointments and / or consultations with a member of staff. Patient recordings which are made either covertly or overtly in order to keep a personal record of what was said are deemed to constitute personal ‘note taking’ and are therefore permissible.

4. **Could you please provide the name(s) of the policy / policies and a copy of the specific section of the policy / policies that is used to inform staff of the policy / policies when a patient and / or their nominated representatives requests to video record their appointment / consultation?**

See answer to Question 2

- 5. Does your Trust allow patients and / or their nominated representatives to make audio recordings of their appointments and / or consultations with a member of staff without informing the member of staff about it (i.e. a covert recording)?**

See answer to Question 1

- 6. Could you please provide the name(s) of the policy / policies and a copy of the specific section of the policy / policies that is used to inform staff of the policy / policies if they discover a patient and / or their nominated representatives has audio recorded their appointment / consultation covertly?**

An NHS Protect policy called “Patients recording NHS staff in health and social care settings”:

Covert patient recordings

Although we cannot place restrictions on a patient wishing to covertly record a consultation or conversation with a health professional, where organisations are aware that covert recording is a significant issue they should aim to discourage patients from doing so by ensuring that:

- the organisation promotes the open and honest recording of consultations, where a patient deems it absolutely necessary (see the advice above, which applies equally to covert recording)
- patients are aware that the organisation takes proactive steps to investigate and address any issues regarding the patient's treatment and care, to avoid them feeling it necessary to record their consultation
- relevant staff should consider providing patients with a written record summary, and or a verbatim record (if practical) of their consultation for their own personal use
- patients are advised that they are entitled to see their notes, if they so wish, by informally asking the healthcare professional in charge of the consultation, or to request a paper copy of their medical notes formally through a Subject Access Request (SAR) made under the Data Protection Act 1998
- patients are given information on how they can complain if they have an issue with their treatment and care, and their attention is drawn to the relevant guidance from the Care Quality Commission (see below) and Information Commissioner's Office.

- 7. Does your Trust allow patients and / or their nominated representatives to make video recordings of their appointments and /**

or consultations with a member of staff without informing the member of staff about it (i.e. a covert recording)?

See answer to Question 3

8. Could you please provide the name(s) of the policy / policies and a copy of the specific section of the policy / policies that is used to inform staff of the policy / policies if they discover a patient and / or their nominated representatives has video recorded their appointment / consultation covertly?

An NHS Protect policy called "Patients recording NHS staff in health and social care settings":- No specific provision is made within the policy for when a staff member discovers a patient and / or their nominated representatives has video recorded their appointment / consultation covertly as patient recordings which are made either covertly or overtly are permissible.

9. Should your Trust's policies not allow patients and / or their nominated to make audio and / or video recordings (having informed the member of staff and / or covertly) of their appointments and / or consultations could you please provide a copy of your Trust's policies regarding what procedures should be followed by both members of the Trust's staff and the patient and / or their nominated representatives where there may be a specific need for the patient and / or their nominated representatives to audio and / or video record their appointments and / or consultations (e.g. medical issues such as dementia, the patient having nobody available to act as an advocate for them or any other need identified by the patient and / or their nominated representatives)?

Not applicable as the Trust does allow patients and / or their nominated to make audio and / or video recordings of their appointments and / or consultations

10. Could you please provide a copy of the impact assessment undertaken of the policy / policies cited in response to question 9?

Not Applicable, see answer to question 9

11. Should your Trust's policies not allow patients and / or their nominated representatives to make audio and / or video recordings (having informed the member of staff and / or covertly) of their appointments and / or consultations could you please provide a copy

of the information that staff can give to the patient and / or their nominated representatives explaining why it is not allowed?

Not Applicable, see answer to question 9

12. Should your Trust's policies state that it is for the staff member to decide whether they are prepared to allow appointments and / or consultations to be audio and / or video recorded by the patient and / or their nominated representatives could you please provide the name(s) of the policy / policies and a copy of the specific section of the policy / policies that states what procedures should be followed by both members of the Trust's staff and the patient and / or their nominated representatives when the member of staff states they are not prepared to be audio and / or video recorded but the patient and / or their nominated representatives are insistent on doing so?

Not Applicable, see answer to question 9

13. Should your Trust have no policy regarding the situations as detailed in questions 1, 3, 5, 7, 9 or 12 could you please detail what procedures should be followed by both members of the Trust's staff and the patient and / or their nominated representatives should any of the situations detailed occur?

Not Applicable

Should you require any further information please do not hesitate to contact me on the email address provided below.

Please remember to quote the reference number above in any future communications.

If you are dissatisfied with the handling of your request, you have the right to ask for this to be investigated internally.

If you are dissatisfied with the information you have received, you have the right to ask for an internal review.

Both processes will be handled in accordance with our Trust's Freedom of Information Policy and the Freedom of Information Act 2000.

Internal investigation and internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Freedom of Information Review, The Clatterbridge Cancer Centre NHS Foundation Trust, Clatterbridge Road, Bebington, Wirral, CH63 4JY

If you are not satisfied with the outcome of the internal investigation/review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.