

**DATED 1.1.2015**

**DATA PROCESSING AGREEMENT**

Between

The Oaklands Practice, Yateley Medical Centre

and

**HAMPSHIRE COUNTY COUNCIL**

**THIS AGREEMENT** is dated 1 January 2015

## **PARTIES**

- (1) The Oaklands Practice, Yateley Medical Centre, Yateley, Hampshire GU46 7LS
- (2) Hampshire County Council of The Castle Winchester Hampshire (The County Council ).

## **BACKGROUND**

- (A) The GP Practice is the holder of Patient Data (as defined below).
- (B) The County Council is a local authority. The GP Practice wishes to share the Patient Data with the County Council and the County Council has agreed to receive the Patient Data only for the Purpose (as defined below) on the terms set out in this agreement.

## **AGREED TERMS**

### **1. INTERPRETATION**

- 1.1 The definitions and rules of interpretation in this clause apply in this agreement

**Data Controller, Data Processor, Process and Processing** have the meanings set out in

section 1(1) of the DPA.

**DPA:** Data Protection Act 1998

**Patient Data:** the data set out in the Service Specification for Health Checks relating to each patient registered with the GP Practice and as transferred to the County Council in accordance with this agreement.

**Purpose:** processing of Patient Data in England for the sole purpose of inviting the patients comprising the Patient Data to attend NHS Health Checks

**Security Breach:** any security breach relating to:

- (a) the Patient Data reasonably determined by the GP Practice to be sufficiently serious or substantial to justify notification to the Information Commissioner or other relevant supervisory authority in accordance with the DPA
- (b) the Patient Data reasonably determined by the GP Practice to be sufficiently serious or substantial to give rise to a material risk of litigation by third parties affected by the breach.

**Term:** a minimum period of 15 months commencing on the Commencement Date subject to clauses 2 and 12.

## **2. COMMENCEMENT AND DURATION**

- 2.1 This agreement shall commence on 1 January 2015 and shall continue, or until either party gives to the other party three (3) months' written notice to terminate this agreement.

## **3 TRANSFER OF DATA**

- 3.1 The Patient Data shall be transferred to the County Council in accordance with the procedures as described in the Schedule

## **4. PURPOSE**

- 4.1 The Purpose (as defined above) is the processing of Patient Data for the sole purpose of inviting the patients whose information comprises the Patient Data to attend NHS health checks
- 4.1 The Patient Data shall comprise the information as specified in the Service Specification
- 4.2 The County Council shall Process the Patient Data for the Purpose only
- 4.3 The GP Practice acknowledges that the County Council is under no duty to investigate the completeness, accuracy or sufficiency of the Patient Data.

## **5 COUNTY COUNCIL'S OBLIGATIONS**

- 5.1 The County Council shall:
- (a) only Process the Patient Data for the Purpose and only to the extent and in such a manner as is necessary for the provision of the Services or as required by law or by any regulatory body.
  - (b) act only in accordance with the instructions of the GP Practice in processing the Patient Data
  - (c) comply with the terms of the DPA
  - (d) comply with the Information Governance Toolkit for Public Health and international security standard ISO 27001
  - (e) take reasonable steps to ensure the reliability of its staff who have access to the Patient Data and that those staff are informed of the confidential nature of the Patient Data, have undertaken training in data protection and are aware both of the County Council's duties and their personal duties and obligations under the DPA and this agreement;
  - (f) not retain the Patient Data for any longer than is necessary for the Purpose;
  - (g) ensure that all Patient Data processed is accurate as supplied and if it becomes aware that any information has been inaccurately recorded or out of date will take immediate steps as may be reasonable in the circumstances to correct its data accordingly and notify the GP Practice where appropriate.

- (h) immediately notify the GP Practice and provide the GP Practice with full co-operation and assistance in relation to any complaint, notice or communication it receives which relates directly or indirectly to the Processing of the Patient Data or to either party's compliance with the DPA.
- (i) implement appropriate technical and organisational measures against the unauthorised or unlawful processing of Patient Data and against the accidental loss or destruction of, or damage to Patient Data to ensure a level of security appropriate to:
  - (i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and
  - (ii) the nature of the data to be protected
  - (iii) take reasonable steps to ensure compliance with those measures;
  - (iv) discharge its obligations under this agreement with all due skill, care and diligence

## **6 GP PRACTICES OBLIGATIONS**

The GP Practice confirms that

- (a) it has the right to enter into an agreement for the Processing of the Patient Data for the Purpose and will comply with the requirements of the Service Specification;
- (b) it is not aware of any circumstances likely to give rise to breach of the terms of this Agreement or of the DPA in the future (including any Security Breach);
- (c) the County Council is entitled to process the Patient Data for the Purpose and such use will comply with the DPA;
- (d) It has provided a fair processing notice to patients including use of information for the NHS Health Check ;

The processing is necessary for the legitimate interests of the data controller and is not unwarranted by reason of prejudice to the rights or freedoms or legitimate interests of the data subjects ;

- (e) all Patient Data is necessary, accurate and up-to-date at the time it is supplied;
- (f) the County Council is registered with the Information Commissioner's Office to process personal data ; and
- (g) it will notify the County Council of any inaccurate or out of date Patient Data prior to despatch of invitations for health checks

## **7 DATA BREACHES**

- 7.1 The County Council confirms that it has in place a data breach policy to deal with any Security Breaches.

7.2 If the County Council :

- (j) becomes aware of any unauthorised or unlawful processing of any Patient Data or that any Patient Data is lost or destroyed or
- (k) becomes aware of any Security Breach,

it shall, promptly notify the GP Practice and fully co-operate with the GP Practice by carrying out an investigation into the breach and if required permit inspection of premises and security arrangements if requested

## **8 SUBCONTRACTORS**

The County Council shall obtain the prior written consent of the GP Practice prior to engaging any subcontractor to carry out any of the Services. The County Council shall oblige the subcontractor to fully comply with the DPA and in particular with the terms of this Agreement insofar as they relate to the purpose for which the data is processed and the security of the Patient Data

## **9 CONFIDENTIALITY**

- 9.1 The County Council shall treat any and all Patient Data as confidential save that where there is any conflict between treating data as confidential information and dealing with it in accordance with the DPA, the provisions of the DPA shall prevail.
- 9.2 The parties agree to provide each other with reasonable assistance and where appropriate, the Information Commissioner's Office and Department of Health, with notification as to any breach of confidentiality or incident involving a breach of confidentiality as soon as practicable following such a breach.
- 9.3 The obligations of confidentiality with regard to the Patient Data contained in this agreement shall remain in force in perpetuity.

## **10 DATA PROTECTION**

- 10.1 The GP Practice and the County Council acknowledge that for the purposes of the DPA, the GP Practice is a Data Controller and the County Council is a Data Processor.
- 10.2 The County Council confirms
  - a) that it has a data protection infrastructure in place
  - b) an individual has been appointed to take control of data protection responsibilities
  - c) a data protection policy is in place

d) segregation of duties exists such that the scope for unauthorised processing is reduced;

- 10.3 The County Council will notify the GP Practice within five working days if it receives a request from a data subject for access to that person's Patient Data or a complaint or request relating to the County Councils obligations under the DPA and will provide the GP Practice with full co-operation and assistance in relation to any complaint or request received by the GP Practice.
- 10.4 The County Council shall not and shall not authorise any sub-contractor to transfer the Patient Data outside the UK without the prior written consent of the GP Practice.

## **11 INDEMNITY**

11.1 The County Council agrees to indemnify the GP Practice from and against losses, damages, costs or expenses reasonably incurred by the GP Practice, arising from any breach by the County Council of this Agreement.

## **12 TERMINATION AND DESTRUCTION OF DATA**

12.1 Either Party may terminate this agreement by giving three (3) months' written notice to the County Council.

On any termination of this agreement for any reason or expiry of the Term the County Council shall destroy all Patient Data, information and other materials provided to it by the GP Practice in connection with this agreement securely and irretrievably regardless of the medium on which the Patient Data is held, such destruction to be undertaken in accordance with the DPA. and will confirm in writing that destruction has taken place on request by the GP Practice

[SIGNATURE On behalf of the GP Practice]

Name .....J.Taylor.....

Position.....Practice Manager.....

[SIGNATURE On behalf of Hampshire County Council]

Name.....

Position.....