



Your Guide to the Mental Health Commission Privacy Policy

The Mental Health Commission (**MHC**) is an independent body established under the Mental Health Act in 2001. Its functions include promoting, encouraging and fostering high standards and good practice in the delivery of mental health services and putting systems in place to protect the rights of mental health patients who have been detained under the Mental Health Act 2001 (and related legislation). This means that the MHC may need to process your Personal Data while you are in receipt of care and treatment at a mental health service, so that we can perform these legal functions.

For the purpose of this Guide to the privacy policy:

- **"Personal Data"** is information from which you (or another person) are identifiable or which relates to you;
- **"Special Categories of Personal Data"** is personal data which is subject to a higher standard of protection under law due to its sensitivity.

It includes Personal Data which reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, and the processing of genetic data, data concerning health or data concerning an individual's sex life or sexual orientation; and

- **"Processing"** refers to any use of your Personal Data including its collection, disclosure, retention and storage.

This Guide summarises when, how and why your Personal Data will be processed as a patient or resident of a mental health service. The MHC routinely processes Personal Data, but from time to time, Special Categories of Personal Data may also be processed. The MHC takes appropriate measures to protect the confidentiality of your Personal Data. Service providers that support our functions are also required to protect the confidentiality of your Personal Data and must not use it for any purpose other than providing services to us.

We have summarised how we use your Personal Data below.

Office of the Inspector of Mental Health Services

From time to time, mental health inspectors visit or review approved centres for the provision of mental health services to ensure these approved centres meet the required standards of care for their residents. In conducting an inspection, these inspectors may examine and, where necessary, take copies of your Personal Data (such as from your patient file) to review the standard of care provided to you at that approved centre. If any concerns are identified with your care and

treatment, this information is used by the MHC to address the issue with the approved centre. Generally, and with effect from 25 May 2018, for any new records we retain, you are only identified on MHC records by a case ID, your initials and date of birth or your medical record number, and not by your full name.

Our current policy is to keep any records of your Personal Data for 6 years.

You may also provide information to us directly concerning your care and treatment or on any issue relating to an approved centre should you so wish and we shall keep a record of this.

We may sometimes need to provide Personal Data to other authorities such as the Child and Family Agency (TUSLA), the Health Information and Quality Authority (HIQA) or any other regulatory body as part of our functions. If we have to do this, we generally try to do so on an anonymised basis. If not anonymised, this is in order to protect your rights while you are receiving care and treatment.

Standards and Quality Assurance (“S&QA”)

All in-patient mental health services must be registered by the MHC. If the MHC thinks a service may need to be registered as an approved centre, it must provide us with details of its residents, including data concerning their health and any special needs of residents (including children).

The S&QA division may also request your personal data from an approved centre to monitor any issues of concern that may have arisen on inspection. This is to ensure that the service has appropriate systems and procedures in place to address the care needs of its residents. This data may be used to verify location of residents who have been transferred to another centre to ensure that appropriate care is taken and to monitor safety and compliance concerns.

Approved centres are also required to submit Quality and Safety Notifications to S&QA, for example, child admissions to adult units, uses of restrictive practices and Serious Reportable Events. These notifications may contain your Personal Data, and are used by the MHC to monitor safety and compliance.

Generally, and with effect from 25 May 2018 for any new records received, you will only be identified on our records by initials and date of birth or medical record number, and not by full name.

Our current policy is to keep any records of your Personal Data for 6 years.

Mental Health Tribunals

If you have been involuntarily detained at an approved centre, a Mental Health Tribunal will be established by the MHC within 21 days. The statutory forms submitted to us as part of this process require information including your name, address, mental condition, date of birth, age and any risk of harm. This Personal Data is provided to an Independent Consultant Psychiatrist who will examine

you and prepare a report for the purpose of the Mental Health Tribunal and be given to the member of the Mental Health Tribunal your legal representative.

In addition to data concerning your health, occasionally, other Special Categories of Data or data relating to criminal offences or convictions are submitted to us in any reports prepared by the Independent Consultant Psychiatrist.

If you are detained, you may wish to appeal a decision of the Mental Health Tribunal to the Circuit Court. In this instance, all information provided to the Mental Health Tribunal along with its decision will be sent to the MHC's legal advisors.

The new policy of the MHC is to retain all records from Mental Health Tribunals for 8 years from the date the last case (as defined with the tribunal team) was closed.

Legal justification for our use of Personal Data

To comply with the law, we need to tell you the legal justification we rely on for using your Personal Data.

The MHC has a statutory function *"to promote, encourage and foster the establishment and maintenance of high standards and good practices in the delivery of mental health services and to take all reasonable steps to protect the interests of persons detained in approved centres"*.

Justification for Processing Personal Data

We process your Personal Data in order to perform our statutory functions, comply with our legal obligations and to allow us perform tasks which are in the public interest.

Special Categories of Personal Data

We only process Special Categories of Personal Data where necessary for the performance of our functions, to protect your vital interests, in the context of legal proceedings, for the establishment, exercise or defence of your legal rights (or those of the MHC or a third person) or where necessary for reasons of public interest in order to ensure high standards of quality and safety of health care.

Criminal Data

Criminal data will only be processed where necessary in the context of MHC functions where authorised by law to do so. This could be in the context of our regulatory functions, for the establishment, exercise or defence of your legal rights (or those of the MHC or a third person) in the context of establishing a Mental Health Tribunal or for the purposes of, or in connection with, legal claims, prospective legal claims, legal proceedings or prospective legal proceedings.

Retention of Personal Data

Your Personal Data will only be kept for as long as is necessary for the purposes for which we collect it or by reference to any legal obligations. In all cases, Personal Data may be retained for a longer period where required in the context of an ongoing legal claim or legal proceedings.

Personal Data Rights

You are afforded particular rights in relation to the processing of your Personal Data which may be limited by circumstance or legal exemptions.

These rights include the following:

- a) Right to access a copy of your Personal Data;
- b) Right to rectify any inaccurate Personal Data;
- c) Right to erase Personal Data, for example, when we no longer need to retain it;
- d) Right to restrict or suspend your use of Personal Data as part of any objection to or challenge of its use; and
- e) Right to complain to the Data Protection Commission about our use of your Personal Data.

Who to contact about your Personal Data

If you have any questions or concerns about the way your Personal Data is used by us, you can contact us by e-mail at: dpfoi@mhcirl.ie

This Guide to the Privacy Policy was approved on 21 June 2018. We may review this and make changes from time to time as required.