NHS Blood and Transplant

Board Meeting in Public

Tuesday, 03 February 2026

Title of Paper	Confidentiality and Data Protection Policy	**Agenda No.**	4.1
Nature of Paper	☒ Official	☐ Official Sensitive	
Author(s)	Jo Fitzpatrick, Head of Data Security, Privacy & Records Management		
Lead Executive	Rebecca Tinker, Chief Digital & Information Officer		
Non-Executive Director Sponsor	N/A		
Presenter(s) at Meeting	Rebecca Tinker, Chief Digital & Information Officer Andrew O'Connor, Programme Director & Interim CISO		
Presented for	☒ Approval ☐ Information ☐ Assurance ☐ Update		
Is there a plan to communicate this to the organisation?	☐ Yes ☐ No ☒ Yet to be determined		

Executive Summary

The Board is asked to approve changes to **POL2 – Confidentiality and Data Protection Policy**.

This update is a regulatory alignment exercise to ensure immediate compliance with the **Data Use and Access Act 2025 (DUAA)** and updated definitions from NHS England.

Future AI Update (Mid-2026): While the DUAA introduces new provisions regarding automated decision-making, the Information Commissioner's Office (ICO) has not yet released full guidance on its application to Artificial Intelligence (AI). Therefore, this policy will require a further substantive review in mid-2026 to incorporate specific AI governance and controls once the regulatory guidance is finalised.

A summary of the immediate regulatory changes is available in Appendix A.

Previously Considered by

Audit, Risk and Governance Committee – 08 January 2026

Recommendation

1. **Approve** the updated POL2 Confidentiality and Data Protection Policy to ensure compliance with the Data Use and Access Act 2025.
2. **Note** that a further update will be presented in mid-2026 to address specific guidance on **Artificial Intelligence (AI)** and automated decision-making.

Risk(s) identified (Link to Board Assurance Framework Risks)

P-09 Regulatory Compliance This policy will be a control measure to mitigate risks of breaching confidentiality following updates to embed the policy across the organisation through comms and other learning channels.

Strategic Objective(s) this paper relates to:

☐ Collaborate with partners ☐ Invest in people and culture ☐ Drive innovation
☒ Modernise our operations ☐ Grow and diversify our donor base

Appendices:	Appendix A – Summary of changes for Pol2 Confidentiality and Data Protection Policy

Appendix A – POL2 Confidentiality and Data Protection Policy

Summary of Changes:

- Updated the National Data Guardian section in line with website guidance.

- Updated sections of Information Rights in line with the Data Use and Access Act process – however until guidance is available from the ICO, this will require a further update in mid-2026 to address specific guidance on Artificial Intelligence (AI) –

    - Automated Decision Making must have some human intervention.
    - Subject Access Requests have more clarification around time limits to respond and what is reasonable and proportionate for searches.
    - Scientific Research allows organisations to re-use data for different research purposes without the need to re-consent.
    - Recognised 'Legitimate Interests' is not a new area of legislation, but the definition and purpose of this legal basis and its use now mean organisations do not need to conduct a Legitimate Interests Assessment as required previously.
    - Rules regarding International Data Transfers have been simplified.
    - Complaints must be handled by NHSBT before the ICO responds to a data subject. This could impact on the volumes of complaints by increasing numbers reported to NHSBT.
    - Storage and access technology such as cookies has changed to allow 'low risk' data captures without the need for consent.

- Updated definitions from NHSE on Personal Identifiable Data (PID).

- Included Secure by Design within Data Protection by Design following the Government standard for all Government Departments including ALBs to follow.

- Updated the diagram for stages to include the DPIA process and how this will inform the Information Asset Register.