

**CONTRACT
RELATING TO THE
2015 Maternity Survey
Briefing**

This briefing has been produced to explain the purpose of the model Service Contract relating to the 2015 Maternity Survey (the Service Contract), made available to NHS trusts to use in carrying out the 2015 Maternity Survey.

Introduction

The 2015 Maternity Survey is being carried out by [Survey contractor], on behalf of [Trust name].

The national patient survey programme was established by the Department of Health and has been operating since 2002. This year will be the fourth year that the national maternity survey has run. It addresses issues of importance to women before, during and after pregnancy. These surveys make it possible to build up a national picture of people's experience, compare the performance of different organisations, monitor change over time, and identify variations between different patient groups. Data from these surveys are also used in policy evaluation.

The use of confidential information

In order to carry out the survey, [Survey contractor] requires personal data of the patients that have visited the trust. These will be: name, address, age, gender, and ethnic group information, and will not include any data of a medical nature. The name and address details will be kept separate from all other information, to enable [Survey contractor] to send out a questionnaire by post.

All organisations that process personal data must comply with the Data Protection Act 1998. They must submit a notification to the Information Commissioner. NHS organisations must also comply with the common law duty of confidence and adhere to the NHS confidentiality code of practice. Additionally, the Care Quality Commission must be satisfied that all arrangements comply with its policies and procedures on confidential personal information. The Commission requires that the transfer of patient data is done in an appropriate way, so that it does not compromise patient confidentiality.

Model Service Contract

To minimise the risk of any breach of patient confidentiality, the Care Quality Commission has produced a template written agreement between the provider and individual trusts to cover these arrangements.

The organisations that are parties to the written agreement must be legal entities (for example, the NHS trust, or a limited company), so that they have the necessary locus to enter into the agreements, and must be the data controller(s) of the relevant personal data. A data controller is defined in the Data Protection Act 1998 as “a

person who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed”.

The arrangement as recommended by the Care Quality Commission requires the provider to contractually agree that their employees will meet and follow specific obligations in relation to the way that the service is delivered, which will include meeting specific standards of confidentiality and data protection. By signing the service contract, the provider agrees to comply with the Data Protection Act 1998. In particular, they are agreeing that they will not use the personal data for any purpose other than the named survey, and that they will comply with the seventh data protection principle which requires "that appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data."

Throughout the course of the survey, the trust remains the data controller, with the provider employed as a data processor to act on behalf of the trust.

The Service Contract can include all relevant arrangements between trusts and providers, for example invoicing details and funding agreements (see the main survey guidance document for more detail). As the data controller, it is for the trust to decide whether to implement the revised version of the arrangements as recommended by the Care Quality Commission, or to continue with any previous form of agreement.

Instructions for completion are provided in the model Service Contract in red text, and within square brackets.

Process for review of model Service Contract

The model Service Contract is to be reviewed by the relevant legal department/body, at each trust. Any queries relating to the intent or purpose of the documentation should be sent to the patient survey team at the Care Quality Commission:

patient.survey@cqc.org.uk

Any amendments to the model Service Contract must be negotiated and agreed by the individual trusts and the provider, independently from the Care Quality Commission. Please contact **[Name of survey contractor staff member who will field queries relating to contracts]** in this instance:

[Contact details (email, then phone number) for survey contractor member of staff (to field queries relating to contracts)]

The survey contractor will then disseminate finalised contracts to each trust and arrange for these to be put into place.