



**LLOYD OH**  
OCCUPATIONAL  
HEALTH

## Privacy Policy

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## Consent

The GMC issued guidance on confidentiality and say that any form of Occupational Health consultation by an Occupational Health Physician (OHP) is the same as other medical encounters in the sense that confidentiality applies in exactly the same way. For the purposes of confidentiality, the employee is in the same relationship with the occupational health doctor as any other patient. Anything that results from the encounter is medically confidential, even a simple fit/not fit opinion. The patient must give informed consent to every aspect of the consultation, including any output from it, otherwise the consultation cannot proceed.

Two types of consent are required from the employee and these are the responsibility of the employee's company and Lloyd OH Ltd.

- 1 Consent to attend the Occupational Health (OH) Appointment
- 2 Consent to share the report

An additional consent is required from the employee if additional medical records are required, i.e. G.P. or specialist consultant.

### **If the employee does not consent**

If the employee withholds or withdraws consent at any stage, the interview/examination cannot be continued and the referring manager should be notified that no opinion can be given. If the employee has asked for changes in the report it is possible to correct factual inaccuracies but not to have the medical opinion altered, restricted or otherwise interfered with. This would undermine the impartiality and objectivity of the report, making it less useful to the referring manager. If the report cannot be agreed then the referring manager will be notified that there was no consent for the release of the report.

## **Legal Requirements**

**There are statutory UK and EU requirements that relate to medical confidentiality.**

### **Data Protection Act 1998 and the General Data Protection Regulation**

The General Data Protection Regulation comes into force throughout the European Union, including the UK, on 25 May 2018. It is planned that at the same time a new Data Protection Act 2018 (currently a Bill) will come into force, ensuring that the GDPR will remain the law of the UK after Brexit. The Data Protection Act 1998 will cease to be law on that date.

Lloyd OH processes Health data under the lawful basis as described by the General Data Protection Regulation Article 6(1) (f): processing is necessary for the purposes of the legitimate interests pursued by the controller or a third party.

Lloyd OH Ltd also processes Health data under the lawful basis as described by the General Data Protection Regulation Article 9 (2) (h): processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems or services.

Lloyd OH Ltd also processes Health data under the lawful basis as described by the General Data Protection Regulation Article 9 (2) (b) as a lawful basis: processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment or social security or social protection law.

### **Common law of confidentiality**

Common Law is also referred to as 'judge-made' or case law. The law is applied by reference to those previous cases, so common law is also said to be based on precedent. The general position is that if information is given in circumstances where it is expected that a duty of confidence applies, that information cannot normally be disclosed without the information provider's consent. In practice, this means that all patient/client information, whether held on paper, computer, visually or audio recorded, or held in the memory of the professional, must not normally be disclosed without the consent of the patient/client.

### **Computer Misuse Act 1990**

The Computer Misuse Act 1990 identifies a range of offences relating to unauthorised access to, or unauthorised modification of, computer records. This act may apply where an unauthorised third-party accesses information being transferred or where systems are used other than by authorised staff for approved purposes.

**Access to Medical Reports Act 1998**

Where the Occupational Health Doctor or Nurse requests a report from an employee's General Practitioner or a Specialist, the Provisions of the Access to Medical Reports Act 1988 apply. The person requesting the report will be familiar with the provisions of the Act. The employee's rights under the Act will be explained to him or her and an appropriate consent form signed.

**Equality Act 2010**

Confidential clinical information may be held which indicates that an individual will be classed as disabled under the Act. Management will need to know what "reasonable adjustment" might be necessary but any disclosure of confidential information requires informed consent.

**Disclosure to Legal Advisers**

Requests for disclosure in connection with litigation must be accompanied by an appropriate written consent or court order. The responsible Occupational Health Nurse or Physician will examine the contents prior to disclosure to ensure that the material is covered by the consent form or court order. Particular care is necessary to avoid inappropriate disclosure of material that may be legally privileged, for example, copies of correspondence between the employee or the employer and their legal representative that may have been filed in the medical records.

## **Data Retention**

Occupational Health records are deleted when they are redundant and this is usually when a person's employment ends plus six years or until their 75th birthday whichever is the sooner. Where a job applicant has not been appointed we will keep the health record for only a year.

Records used for research or statistical purposes can be kept indefinitely.

Where our OH physicians are acting as an external adviser and may only see the patient once, for example in connection with a pension application, records should be kept for a minimum of six years, the limitation period for breach of contract. If the case may potentially give rise to a legal claim they may be kept for longer. There will always be a valid point for retention.

### **Records of statutory health surveillance**

These are in a special category. There are a number of regulations which impose a duty on employers to institute regular health checks of employees exposed to particular hazards where it may be possible to detect adverse effects before serious damage is done. Examples particularly relevant to OH are the Control of Substances Hazardous to Health (COSHH) Regulations, the Control of Vibration at Work Regulations, the Control of Noise at Work Regulations, the Control of Lead at Work Regulations and the Control of Asbestos Regulations. All these regulations follow a similar pattern.

The employer must create a basic health record with the following details: employee's name and address and National Insurance number, substance/process they are exposed to and when, surveillance that has been done on them and the name of the tester, and the outcome, eg fit/unfit/fit with adjustments.

This health record is not confidential to OH and can be kept by the referring company. The detailed clinical records with the results of the tests and other clinical information will be kept confidential and this OH record will not be disclosed without consent. The health record will be kept for 40 years but the clinical records do not need to be retained as long as that unless there is, exceptionally, a special reason for doing so.

### **Why and how we collect information**

We may ask for or hold personal confidential information about you which will be used to support delivery of appropriate care and treatment. This is to support the provision of high quality care.

These records may include:

- Basic details, such as name, address, email address, date of birth, National Insurance number
- Contact we have had with you, such as appointments for medicals
- Details and records of the consultations
- Consent form
- Occupational Health Reports
- Statutory Health Surveillance Records
- Statutory Health Surveillance Clinical Notes
- Results of x-rays, blood tests and other medical tests
- Medical Records and letters from other health professionals where consent was given by you.

Information is collected in a number of ways, via your employer's referral, other healthcare professionals or directly given by you during a medical consultation.

### Data Record Retention for Occupational health

Category of Personal Data	Examples of Medicals/ Service	Type of Data	Retention Period
Referral Forms from Employers	Referral forms emailed to Lloyd OH for requests for OH services for employees	Confidential Health data	When a person's employment ends plus six years or until their 75th birthday whichever is the sooner.
Records of Statutory Health Surveillance	Control of Substances Hazardous to Health (COSHH) Regulations, the Control of Vibration at Work Regulations, the Control of Noise at Work Regulations, the Control of Lead at Work Regulations and the Control of Asbestos Regulations	Confidential/ personal data	40 years
Clinical Notes of Statutory Health Surveillance	Control of Substances Hazardous to Health (COSHH) Regulations, the Control of Vibration at Work Regulations, the Control of Noise at Work Regulations, the Control of Lead	Confidential Health data	20 years

	at Work Regulations and the Control of Asbestos Regulations		
Occupational Health Reports and notes	Management Referral Form, Executive Health Medical, Full Medicals.	Confidential Health data	When a person's employment ends plus six years or until their 75th birthday whichever is the sooner.
Consent Forms	Standard Consent form before delivering the Occupational Health service/ medical	Confidential/ personal data	When a person's employment ends plus six years or until their 75th birthday whichever is the sooner.
Medical tests	X-Ray, Spirometry, Hearing Test, Blood tests, Alcotest etc	Confidential Health data	When a person's employment ends plus six years or until their 75th birthday whichever is the sooner.

## Information captured by our website

### Our use of cookies

Cookies are small text files that are placed on your computer by websites that you visit. They are widely used in order to make websites work, or work more efficiently, as well as to provide information to the owners of the site.

Most web browsers allow some control of cookies through the browser settings. To find out more about cookies, including how to see what have been set and how to manage and delete them, visit [www.allaboutcookies.org](http://www.allaboutcookies.org).

If you do nothing other than read pages or download information, we will capture and store information about your visit. This information will not identify you, it relates to:

- the internet domain (such as [www.bbc.co.uk](http://www.bbc.co.uk)) and IP address from which you access the website
- the type of browser (Internet Explorer or Firefox etc) and operating system you use (Windows, Mac OS, UNIX)
- the date and time of your visit
- the pages you visit
- the address of the web site from which you linked to us (if applicable)

### What do we use the information for?

We use this information to make each visit more rewarding and to provide us with information to help improve our service. We do not know (and do not wish to know) the identities of the individuals who visit our website.

### Google Analytics

Google Analytics Cookie Usage on Websites - read more here

( <https://developers.google.com/analytics/devguides/collection/analyticsjs/cookie-usage> )

## Control over your Information

Under the General Data Protection Regulation, you have several important rights available to you. In summary, those include rights to:

- be informed about how your personal information is being used (hopefully this privacy policy explains it all)
- Access the personal information we hold about you
- Request that we transfer elements of your data to another service provider
- Request us to correct any mistakes in your information which we hold
- Request the erasure of personal information concerning you in certain situations
- Receive the personal information concerning you which you have provided to us, in a structured format
- Object to the processing of your personal data

For further information on each of these rights, including the circumstances in which they apply, see the [Guidance from the UK Information Commissioner's Office \(ICO\) on individuals rights under the General Data Protection Regulation.](#)

If you would like to exercise any of these rights, please:

- Write to us at Lloyd OH Ltd, 82 Bramhall Lane, Davenport, Stockport SK2 6JG or email us at [info@LloydOH.com](mailto:info@LloydOH.com)
- let us have enough information to identify you;
- let us have proof of your identity and address (a copy of your driving licence or passport and a recent utility or credit card bill); and
- let us know the information to which your request relates

We try to respond to all requests within one month. Occasionally it may take us longer than a month if your request is particularly complex or you have made many requests. In this case, we will notify you and keep you updated

## **Keeping Your Personal Information Secure**

We have appropriate security measures in place to prevent personal information from being accidentally lost, used or accessed in an unauthorised way. Those processing your information will do so only in an authorised manner and are subject to a duty of confidentiality.

We also have procedures in place to deal with any suspected data security breach. We will notify you and any applicable regulator of a suspected data security breach where we are legally required to do so.

If you want detailed information from Get Safe Online on how to protect your information and your computers and devices against fraud, identity theft, viruses and many other online problems, please visit [www.getsafeonline.org](http://www.getsafeonline.org). Get Safe Online is supported by HM Government.

## **How to Complain**

We hope that we can resolve any query or concern you raise about our use of your information. If you are not happy with how Lloyd OH Ltd manages your personal data, you have the right to lodge a complaint with a supervisory authority. The supervisory authority in the UK is the Information Commissioner who may be contacted at <https://ico.org.uk/concerns/>.

## **Changes to this Privacy Policy**

This privacy policy was published on 01/05/2018 and last updated on 01/05/2018.

Any changes we make to this policy will be posted on this page.

## **How to contact us**

If you wish to contact us please send an email to [info@LloydOH.com](mailto:info@LloydOH.com) or write to the Data Controller, Lloyd OH Ltd, 82 Bramhall Lane, Davenport, Stockport SK2 6JG.

Appendix 1.1 Consent Form



**Employee Consent to Medical Consultation and Release Report**

First Name..... Surname.....

Date of Birth.....Address.....

.....Name of Employer.....



**CONSENT TO UNDERGO A MEDICAL CONSULTATION / EXAMINATION**

Informed consent must be obtained at any medical examination/ consultation/ medical test in line with General Medical Council guidelines

1. I have been fully counselled regarding the purpose of this consultation/examination/ medical testing, the reason and validity of any investigations that are undertaken and the possible outcomes including implications of the report to my employment.
2. I give consent for the examining Occupational Health professional to release my medical information to Lloyd OH Ltd medical personnel, for such information to be assessed and to form the basis of a report to my employer.
3. I authorise Lloyd OH to release medical information from this assessment to my General Practitioner and/ or medical specialists regarding the outcome of my case, if necessary.
4. I authorise Lloyd OH to maintain and process my Occupational Health records in compliance with the General Data protection Regulation (GDPR)

**PLEASE TICK BOX**

**CONSENT TO RELEASE A MEDICAL REPORT TO EMPLOYER**

It is usual for you to receive a copy of the report before it is sent to your employer. However, you may wish for the report to be sent to your employer at the same time.

PLEASE TICK **ONE** OF THE FOLLOWING BOXES

The report has been discussed with me and **I wish to have a copy of the final report prepared by Lloyd OH provided to me 2 days before it is sent to my employer.** My comments on the report will be reviewed by the doctor and may be used to correct factual inaccuracies in the report. Alternatively, my comments will be reviewed and appended to the report for my employer to consider my responses to the report if the doctor does not consider a change to the report is required. When I have agreed to any changes the report will be sent to my employer.

The report has been discussed with me. **I do not wish to have a copy** of the medical report provided to me.

The report has been discussed with me and I am happy to receive a copy **at the same time** as my employer.

**Email** .....

**SIGNED**..... **DATE**.....

**PRINT NAME**.....

Lloyd OH Ltd  
 Cedar House Surgery, 82 Bramhall Lane, Davenport, Stockport. Cheshire SK2 6JG  
 Tel: 0161 204 4263 E:info@LloydOH.com  
 www.LloydOH.com

## Appendix 1.2 Privacy Notice



### Privacy Notice

The tri-partite nature of Occupational Health assessments, as opposed to the two-way dynamic that exists during most medical consultations, means that there is plenty of scope for questions regarding consent to arise.

#### Your Rights and Consenting

To provide consent you must understand the purpose of the assessment (i.e. what questions the employer is seeking advice about), to whom the information will be sent, what the potential implications could be (i.e. an understanding that the employers management decisions will be informed by the Occupational Health advice they receive) and the consent should be given freely.

The final report to HR or your management will only refer to clinical issues, which are felt to be of relevance to fitness for work (provided you provide consent for the release of relevant clinical information).

It is important to note that you have the option to withhold consent to assessment. It is also important to note that such a decision may mean that your employer manages their case without the benefit of Occupational Health advice and therefore this option may not be in your best interests.

#### Control over your Information

Under the General Data Protection Regulation, you have several important rights available to you. In summary, those include rights to:

- Be informed about how your personal information is being used
- Access the personal information we hold about you
- Request that we transfer elements of your data to another service provider
- Request us to correct any mistakes in your information which we hold
- Request the erasure of personal information concerning you in certain situations
- Receive the personal information concerning you which you have provided to us, in a structured format
- Object to the processing of your personal data.

If you would like to exercise any of these rights you will find further information on our website in our Privacy Policy at [www.LloydOH.com](http://www.LloydOH.com), or please:

- Write to us at Lloyd OH Ltd, 82 Bramhall Lane, Davenport, Stockport SK2 6JG or email us at [info@LloydOH.com](mailto:info@LloydOH.com)
- let us have enough information to identify you;
- let us have proof of your identity and address (a copy of your driving license or passport and a recent utility or credit card bill); and
- let us know the information to which your request relates

We try to respond to all requests within one month. Occasionally it may take us longer than a month if your request is particularly complex or you have made many requests. In this case, we will notify you and keep you updated.

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[www.LloydOH.com](http://www.LloydOH.com)