Police Disclosures Protocol

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| Policy Title / Reference | Author | Owner |
| Police Disclosures Protocol | Hannah Calway, Kafico Ltd | [insert protocol owner] |

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| 1 | Hannah Calway, Kafico Ltd | Feb 19 New Draft |
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## Sources

[Data Protection Act 2018 (DPA)](http://www.legislation.gov.uk/ukpga/2018/12/contents)

[General Data Protection Regulations (EU) 2016/679 (GDPR)](https://gdpr-info.eu/art-9-gdpr/)

[Information Commissioner – Guide to the General Data Protection Regulations (ICO Guide)](https://ico.org.uk/media/for-organisations/guide-to-the-general-data-protection-regulation-gdpr-1-0.pdf)

# Scope

This protocol has been drafted for use by customers of Kafico Ltd across Suffolk.

At the time of writing and unless alternative protocols have been adopted locally, the protocol applies to;

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| Barrack Lane | Stanton (west) | Mendlesham |
| Burlington Road | Peninsula | Wickhambrook |
| Framlingham | Felixstowe Road Medical Practice | Church Farm Surgery (Aldeburgh) |
| Botesdale Health Centre | Ivry Street | Framfield |
| Hawthorn Drive | Lakenheath | Saxmundham |
| The Surgery, Leiston | Ixworth | Grove Medical Centre |
| Victoria Surgery | Little St John Street |  |

# Definitions / Context

**Exemptions** This is when particular rights or obligations of data protection legislation can be lawfully set aside to achieve particular purposes identified within the legislation – such as for law enforcement.

**Law Enforcement bodies** Any body that has statutory functions for any of the law enforcement purposes. For example; Any public authority (such as police) with powers to investigate and / or prosecute crimes and impose sentences. Organisations who are empowered by law to exercise those powers in a way that gives them control over the data.

# Which Disclosures are Covered by This Protocol?

If you are asked to disclose information in relation to;

* the prevention and detection of crime;
* the apprehension or prosecution of offenders; or
* the assessment or collection of a tax or duty or an imposition of a similar nature.

# Which Exemptions Apply to Data Disclosed for These Purposes?

* The individual does not have a right to be informed about the disclosure
* All the other individual rights (objection, withdrawal of consent etc)
* The individual does not need to be notified in the event of a data breach associated with the disclosure
* There is no need to comply with the principles of fairness and transparency
* There is no need to limit the purpose of processing

However – these exemptions only apply where doing so would ***prejudice*** the law enforcement purposes.

For example; to inform the individual of the disclosure would affect our ability to detect crime and so we are applying the exemption to the Right to be Informed.

# How Do We Apply the Exemptions?

* The practice cannot be expected to fully investigate how the information disclosed might help or hinder a law enforcement case or to what extent the information is *necessary* for such a case
* However, the practice should obtain confirmation from the requestor that the exemptions have been considered and applied appropriately.

# Ensuring the Information is **Strictly** necessary?

* In order to satisfy this criterion, the information requested must not be disproportionate to the nature of the crime.
* The law enforcement officer does not have blanket entitlement to a victim and / or suspects entire medical record.
* If the request does not already state this - you must ask the law enforcement officer to confirm that they are only requesting what is ***necessary*** to investigate / prevent the criminal activity and that not having ***everything*** they have asked for would prejudice the case.
* You should ask this, even if the patient / individual has consented to releasing the entire medical record

# Do we have to notify the patient that we have received the request / are releasing their information?

* Data protection law permits the information to be released without informing or obtaining consent from the data subject, but ONLY where informing them or obtaining consent would prejudice the case
* If not already stated in the request, ask the requestor to confirm informing / consent would prejudice law enforcement purposes

# Relevant Questions for Police Request

1. You have requested the full medical record, can I ask you to confirm that the full medical record is ***necessary*** for the detection / prevention of crime (please be aware that the record will contain information such as childhood immunisations, STDs etc)
2. Please confirm that ***NOT*** having the information requested would prejudice the detection / prevention of crime (or other stated law enforcement purposes such as tax collection)
3. Please confirm whether informing the individual about the request would ***prejudice*** the investigation / detection of crime