

Freedom of Information Request No: FOI/1258/2021

Question:

- Has *Salford Integrated Record* now stopped processing personal confidential information for secondary uses, subsequent to the letter from NHSX and the concerns raised by the NDG?

If not, and disclosure and processing continue, what is the legal basis for the disclosure of, and subsequent access to, personal confidential information for secondary uses processing (such as population health management) by contributing data controllers such as GP surgeries, and its subsequent linkage, deidentification, and analysis?

- Is it the explicit permission of each individual obtained prior to disclosure?
- Or has authority been specifically granted for all such processing under Regulation 5 of COPI 2002 (HRA/CAG approval)?
If so, please could you provide:
 - The CAG approval reference
 - Which classes of support has your project been granted (<https://www.legislation.gov.uk/ukxi/2002/1438/schedule/made>), given that access to, linkage, deidentification, analysis, and further disclosure of, such information occurs

Response:

1. No, Salford is satisfied it has appropriate IG measures in place which is what the letter from NHS X asked us to do.
- 2.

For bringing data together:	For accessing data:
ARTICLE 6 Conditions relevant for purposes of the first principle: processing of any personal data	
6(1.c) The processing is necessary for compliance with a legal obligation to which the data controller is subject	6(1.c) The processing is necessary for compliance with a legal obligation to which the data controller is subject
6(1.e) The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.	6(1.e) The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.
ARTICLE 9 Conditions relevant for purposes of the first principle: processing of sensitive personal data	
9(2.g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;	9(2.g) processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject;

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 and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3; (Personal data referred to in paragraph 1 may be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Union or Member State law or rules established by national competent bodies)
* this includes registered Social Workers.

9(2.i) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy;

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 and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3; (Personal data referred to in paragraph 1 may be processed for the purposes referred to in point (h) of paragraph 2 when those data are processed by or under the responsibility of a professional subject to the obligation of professional secrecy under Union or Member State law or rules established by national competent bodies or by another person also subject to an obligation of secrecy under Union or Member State law or rules established by national competent bodies)
* this includes registered Social Workers.

9(2.j) processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices, on the basis of Union or Member State law which provides for suitable and specific measures to safeguard the rights and freedoms of the data subject, in particular professional secrecy;

Regarding your question on code of confidentiality. The following safeguards apply:

- i. We have a data processing agreement with our NHS Trust partner Northern Care Alliance (SRFT) who undertake all storage and processing of data.
 - ii. We have a formal application process where any applicant wishing access to deidentified data is required to give full details of their needs and projects and all elements of the Data Protection Act and Caldicott principles are applied. (see Q 3 for details of committee)
 - iii. Before any application is submitted to the committee, the Information Governance experts assess for legality.
 - iv. A proportion of applications are rejected or substantially modified.
 - v. Data supplied is fully de-identified by our processor before release
3. No, the basis of the secondary use is on an opt out basis. Any person who has a coded reference to desire to opt out of any type of sharing for secondary use is excluded from secondary use analysis. Codes used to ensure patient wishes are adhered to are listed below: (READ CODES quoted - These will also have a SNOMED equivalent)

Standard Opt Out Codes

93C1 - Refused consent for upload to local shared electronic record

93C3 -Refused consent for upload to national shared electronic record

Additional exclusion codes used for research and secondary use proposes

9Nd1. No consent for electronic record sharing

9Nd9. Declined consent for Primary Care Trust to review patient record

9NdH. Declined consent to share patient data with specified third party

9NdJ. Consent withdrawn to share patient data with specified third party

9R12. Conf data - not to be reported

9R13. Conf data - staff not to see

9R14. Conf data - paramedics not see

9R15. Conf data - other Dr not see

9R1Z. Confidential data NOS

9M1.. Informed dissent for national audit

9M10. Informed dissent for diabetes national audit

9Ndb. Consent declined by person with parental responsibility

9Ndj. Declined consent to share clinical information with general practitioner

9Ndo. Express dissent for Summary Care Record dataset upload

9Nu0. Dissent from secondary use of general practitioner patient identifiable data

Each application to use anonymised data is fully scrutinised and assessed, taking into account its research status, ethical approval status and purpose to ensure it meets our legal and local obligations. The governance group includes representatives of data controllers including Dr Owain Thomas Chief Clinical Informatics Officer((CCIO) and GP, second GP member, Local Medical Committee representative, CCIO Salford Royal (an acute physician) and a research department representative. In addition, the two organisations have their IG/DPO officers present. We do not process data from Mental Health or Social Care for secondary uses.

The requested documents can be supplied when available.

Queries:

It is hoped you find these details helpful to your enquiries. However if you are unhappy with this response please let us know, giving your reasons for believing we have not satisfied the requirements of the Freedom of Information Act.

The matter will then be considered by the Freedom of Information officer who will respond in writing. This correspondence will include details of the Information Commissioner who you can contact if you remain dissatisfied with our response.

Freedom of Information Office
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