

From: Tim Donohoe [REDACTED]
Subject: NDG Data Enquiry
Date: 6 May 2021 at 17:12
To: [REDACTED]
Cc: [REDACTED]



Dear [REDACTED]

We have received correspondence from the National Data Guardian's office in relation to concerns that have been raised with them about the legal basis for the secondary uses of data held in shared records.

Where data is shared by health and care organisations into a shared record for direct care purposes, the common law legal basis for this will normally be implied consent.

Once information has been collected into shared records, there are clearly important further uses that can be made of this information to improve health and care services through research and planning. The NDG supports the principle that the data used to support these activities should be anonymised as far as this is sufficient for these purposes.

The concerns that have been raised with the NDG are that some shared record initiatives are carrying out the processing that is necessary to anonymise the data without a clear legal basis. In all such record sharing initiatives, the data controller is part of the local team and is therefore responsible for ensuring that there is a clear legal basis for such data processing. In addition, where the local record was a centrally funded LHCR initiative, it should have had independent assurance of the IG arrangements.

We have already issued a draft of the Information Governance Framework for Integrated Health and Care and are planning to issue a final version by July 2021 which will cover individual care. The Health and Care IG Panel is finalising a national policy position on anonymisation and pseudonymisation of confidential patient information and we will share further guidance with the system in due course.

Whilst it does not fall to NHSX to take enforcement action, we would want to ensure IG policy is being followed and that appropriate IG arrangements are in place. If local teams require assistance then we would be happy to provide further support

[REDACTED]

I would be grateful if you could confirm to me that you are wholly satisfied that your respective record sharing initiatives have undertaken the work necessary to ensure that you are working within an appropriate legal basis in respect of the use of patient data for purposes other than direct care.

If you require any further support on this issue, please do not hesitate to contact me.

Yours sincerely,

Tim

Tim Donohoe
Director of Delivery, Assurance and Operations
NHSX

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