

Our refs: 299, 708 and 959

04 December 2020

Dear Mr Donahoe

I am writing to bring your attention to concerns that have been raised with me over a period of time about the common law legal basis for anonymising data held in shared care records.

Where data is shared by health and care organisations into a shared care record, the common law legal basis for this sharing will normally be implied consent, which is appropriate where the data is to be used for direct care.

Once information has been collected into shared care records, there are clearly important further uses that can be made of this information to improve health and care services through research and planning. I entirely support 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 are that shared care records are carrying out the processing that is necessary to anonymise the data without a clear legal basis. As you will see from the correspondence that I am sharing with you, the concerns relate to a significant number of shared care record projects across the country.

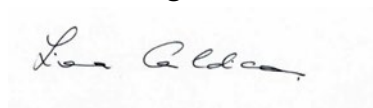
This is a long-standing issue about which some of us in the system have wanted to achieve greater clarity for a number of years. I am hopeful that the formation of the Health and Care Information Governance Panel will help us make progress towards this.

In the meantime, I thought it was important for me to share the concerns with you as the senior responsible officer for the Local Health and Care Records programme.

If you would find it useful to discuss this further, please do let me know.

I have copied members of my sponsor team in the Department of Health and Social Care (DHSC) so that they are aware of this correspondence.

With kind regards

A handwritten signature in black ink, appearing to read "Fiona Caldicott", on a light-colored rectangular background.

Dame Fiona Caldicott, MA FRCP FRCPsych  
**National Data Guardian for Health and Social Care**

