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19 April 2022

Dr Matthew Snowsill
Emergency Department
Princess Alexandra Hospital
Hamstel Road
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Dear Dr Snowsill

Application title: Pre-Hospital Emergency Medicine (PHEM) Feedback
CAG reference: 18/CAG/0018

Thank you for your amendment request to the above non-research application, submitted for support under Regulation 5 of the Health Service (Control of Patient Information) Regulations 2002 to process confidential patient information without consent. Supported applications enable the data controller to provide specified information to the applicant for the purposes of the relevant activity, without being in breach of the common law duty of confidentiality, although other relevant legislative provisions will still be applicable.

The role of the Confidentiality Advisory Group (CAG) is to review applications submitted under these Regulations and to provide advice to the Secretary of State for Health and Social Care on whether an application should be supported, and if so, any relevant conditions.

Secretary of State for Health and Social Care support decision

The Secretary of State for Health and Social Care, having considered the advice from the Confidentiality Advice Team (CAT) as set out below, has determined the following:

The amendment, to extend the scope of the application activity to eight additional NHS sites within the scope of the programme, to confirm that Ambulance or Air Ambulance Service Trust email addresses are no longer NHS.net, to check national data opt Out via the MESH system, and to extend the duration of 's251' support until April 2025, is supported, subject to compliance with the standard conditions of support.

Amendment request

This application from the Princess Alexandra Hospital NHS Trust aims to implement a service evaluation system for staff involved in the pre-hospital care of patients. The system provides staff involved with the pre-hospital care of patients the facility to follow-up on specific cases to facilitate learning, improve clinical judgement, allow an opportunity for reflection, debriefing in

particularly difficult or sensitive cases and facilitate improvement in the standard of care provided in the future.

This amendment sought support to include additional data processors in the form of the new sites listed below;

- 1) West Suffolk NHS Foundation Trust
- 2) James Paget University Hospitals NHS Foundation Trust
- 3) East and North Hertfordshire NHS
- 4) North Middlesex University Hospital NHS Trust
- 5) Norfolk and Norwich University Hospitals NHS Foundation Trust
- 6) Bedfordshire Hospitals NHS Foundation Trust
- 7) The Queen Elizabeth Hospital King's Lynn NHS Foundation Trust
- 8) Barking, Havering and Redbridge Hospitals NHS Trust

This amendment also sought support to confirm that Ambulance or Air Ambulance Service Trust email addresses are no longer NHS.net, however the flows of data remain the same and NHS Digital have confirmed that these remain security accredited domains.

This amendment also clarified that the applicant will use NHS numbers to check if a patient has opted out via the National Data Opt Out via the MESH system, and this procedure remains a standard expectation of all applications under 's251' support.

The amendment also sought support to extend the duration of 's251 support' by 2 years to April 2025. This is to account for time lost during the pandemic.

Confidentiality Advice Team advice

The amendment requested was considered by the Confidentiality Advice Team, who raised no queries regarding this amendment.

Confidentiality Advice Team conclusion

In line with the considerations above, the CAT agreed that the minimum criteria under the Regulations appeared to have been met for this amendment, and therefore advised recommending support to the Secretary of State for Health and Social Care.

Specific conditions of support

1. Confirmation provided from the IG Delivery Team at NHS Digital to the CAG that the relevant Data Security and Protection Toolkit (DSPT) submission(s) has achieved the 'Standards Met' threshold: **Confirmed:**
 - a. **Not checked due to the number of additional research sites to be included within the scope of support.**
 - b. **Support is recommended on the basis that the applicant ensures the required security standards are in place at each site prior to any processing of confidential patient information with support under the Regulations – see section below titled 'security assurance requirements' for further information.**
 - c. **Where NHS Digital confirms confirmed qualified assurance against the organisation's 2020/21 DSPT submission on the basis that the Trust has not met the 95% standard relating to staff security awareness training: the applicant must ensure that all staff involved in processing data under this section 251 support must have successfully completed local security awareness training before processing any data.**

Security assurance requirements

It is the policy position of the Department of Health and Social Care (DHSC) in England that all approved applications seeking 'section 251 support' to process confidential patient information without consent must evidence satisfactory security assurances through completion and satisfactory review by NHS Digital of the relevant Data Security and Protection Toolkit (DSPT). All organisations that are processing confidential patient information under this support must have completed a DSPT submission, and NHS Digital must have reviewed the self-assessment.

There is an agreed bespoke process in place, specifically for applicants seeking 'section 251 support', where the IG Delivery Team at NHS Digital will review the relevant DSPT submission and confirm to CAG that the submission meets the 'Standards Met' threshold. An organisational self-assessment does not provide sufficient evidence; the submission must be independently reviewed by NHS Digital.

To enable NHS Digital to confirm to CAG that the relevant DSPT submission has achieved 'Standards Met', applicants must ensure that the relevant organisations have completed a DSPT submission and submitted their self-assessment(s) through the usual process. At this stage, the applicant must email the Exeter Helpdesk via exeter.helpdesk@nhs.net and provide this CAG reference number, the organisational names and references that require review, and ask NHS Digital to review the DSPT submissions due to a CAG application. Once reviewed, NHS Digital will confirm to CAG by email that the submission has met the required level.

Reviewed documents

<i>Document</i>	<i>Version</i>	<i>Date</i>
CAG Amendment request form		17 March 2022

Please do not hesitate to contact me if you have any queries following this letter. I would be grateful if you could quote the above reference number in all future correspondence.

Yours sincerely

Caroline Watchurst
Confidentiality Advisor

On behalf of the Secretary of State for Health and Social Care

Email: cag@hra.nhs.uk

Enclosures: Standard conditions of support

Standard conditions of support

Support to process confidential patient information without consent, given by the Secretary of State for Health and Social Care, is subject to the following standard conditions of support.

The applicant and those processing the information will ensure that:

1. The specified confidential patient information is only used for the purpose(s) set out in the application.
2. Confidentiality is preserved and there are no disclosures of information in aggregate or patient level form that may inferentially identify a person, nor will any attempt be made to identify individuals, households or organisations in the data.
3. Requirements of the Statistics and Registration Services Act 2007 are adhered to regarding publication when relevant, in addition to other national guidance.
4. All staff with access to confidential patient information have contractual obligations of confidentiality, enforceable through disciplinary procedures.
5. All staff with access to confidential patient information have received appropriate ongoing training to ensure they are aware of their responsibilities.
6. Activities remain consistent with the General Data Protection Regulation and Data Protection Act 2018.
7. Audit of data processing by a designated agent is facilitated and supported.
8. The wishes of patients who have withheld or withdrawn their consent are respected.
9. Any significant changes (for example, people, purpose, data flows, data items, security arrangements) must be supported via formal amendment prior to changes coming into effect.
10. An annual review report is submitted to the CAG every 12 months from the date of the final support letter, for the duration of the support.
11. Any breaches of confidentiality around the supported flows of information should be reported to CAG within 10 working days of the incident, along with remedial actions taken / to be taken. This does not remove the need to follow national/legal requirements for reporting relevant security breaches.