

Minutes of the meeting

National Data Guardian's Panel Meeting



14.11.2019



Conference Room 4/5, Department of Health and Social Care, 39 Victoria Street, Westminster, SW1H0EU

Panel members present:

Dame Fiona Caldicott – Chair Dr Alan Hassey
John Carvel
Professor Martin Severs
David Watts
Patricia Marquis
Rakesh Marwaha
Dr James Wilson

In attendance:

Dr Chris Bunch
David Riley
Jenny Westaway
Ross Thornton
Rajoo Veeren

Guests:

None

1. Welcome, apologies and declarations of interest

Firstly, Dame Fiona apologised for the late changes to the agenda and a lack of visitors which were due to pre-election restrictions.

Apologies were noted from Dr Joanne Bailey, Anne Stebbing and Eileen Phillips. Dame Fiona let colleagues know that her daughter is standing for the Labour party at the General Election in Dudley South.

Mark Golledge has resigned from panel and Dame Fiona passed on his appreciation to colleagues on the Panel.

2. Minutes from previous meeting, actions and decisions

The minutes from the panel meeting held on 11 September 2019 were accepted as an accurate record of the meeting.

It was agreed that there were four open actions; the panel discussed taking further steps on the action (2019.09.11/5.1) below. All other actions were agreed as having been completed prior to this meeting.

2019.09.11/5.1 The office to follow up with David Evans at NHS X as to what arrangements the work on a template data sharing agreement is intended to cover (e.g. data controller to data processor etc) and that it serves the needs of social care.

3. Sponsor's update

Dame Fiona provided an update to her panel members as the sponsor team was not able to attend due to pre-election restrictions, which have

led to the cancellation of several meetings. Dame Fiona had calls with Matthew Gould CEO of NHSX on Monday 11 November and Kathy Hall Director of Policy & Strategy NHSX today.

Dame Fiona provided panellists with a summary of the first meeting of the National Information Governance Board (NIGB) on 10 October. The panel discussed the draft Terms of Reference and the feedback that the office has given to NHS X about these to ensure that National Data Guardian (NDG) independence is maintained. Dame Fiona also outlined work with the Information Commissioner's Office (ICO) including a planned joint statement.

Dame Fiona gave panellists an update on discussions on the Type 1 opt out in the context of the commitments outlined in the Government response to the NDG Review. One of the points discussed was how the Data Security Protection Toolkit would track compliance with the National Data Opt-out.

2019.11.14/3:1 The office to check what questions the Data Security Protection Toolkit has on compliance with the National Data Opt-out.

4. 777: Reasonable expectations

Professor James Wilson outlined previous discussions at steering group (SG) and how the NDG might progress this work and the SG preference for considering how the Caldicott principles might be helpful to do this.

It was agreed by all panel members present at the meeting that this is something to take further. Panel agreed that more work is needed to ensure that any proposed changes or advice from the NDG would be easily applied at the frontline to support better decision making about the use of data.

It was also agreed that the next step should be discussion with the sponsor, to be followed by engagement with regulators and then with wider stakeholders.

It was agreed that the next steps should be:

- Let the sponsor see an early draft
- Then organise a meeting with regulators
- Then organise a meeting with wider stakeholders
- Following the above steps, prepare a public consultation if appropriate to progress.

2019.11.14/4:1 The office to draw up a revised plan to progress reasonable expectations.

2019.11.14/4:2 The office to circulate Martin's note on reasonable expectations.

5. 1239: NHS Improvement Experian pilot

NHS Improvement (NHSI) were due to attend this meeting to discuss the pilot that they had conceived for hospitals trusts to use Experian to check whether patients were likely to be eligible for free care. However, after papers for the meeting had been circulated, NHSI advised they would not be able to take part in the panel meeting due to pre-election restrictions.

Panellists considered the submission that had been provided by NHSI prior to their withdrawal from the meeting and raised a number of points to help the discussion with NHS I, now planned for 21 January 2020. In particular, panellists wanted to explore whether the common law duty of confidentiality could be met.

2019.11.14/5:1 The office to collate questions raised and liaise with NHS I to inform them of panellist interest ahead of the January meeting.

6. Any Other Business

Dr Chris Bunch raised the matter of clinical audits that exist, in particular with reference to those which are not clearly taking place within the boundaries of an organisation. He raised a number of questions that the UK Caldicott Guardian's Council (UKCGC) is considering with the aim of helping a consistent approach to the variety of audits which exist. It was agreed that the NDG panel would support the UKCGC by providing review and advice.

Dr Chris Bunch also provided an update on discussions about the role of a Caldicott Guardian in a changing information governance landscape. He advised that the DSPT has provided useful insights into the number and distribution of Caldicott Guardians (CG). This provides a useful opportunity for the UKCGC to engage with many more CGs. It was agreed that the role of the CG remains very important as the 'conscience of an organisation' alongside other roles. Dame Fiona felt that it was important that those doing these roles were supported.