National Data Guardian

National Data Guardian's Panel Meeting
Tuesday 21 November 2017
Meeting Room 1, Richmond House,
79 Whitehall, London.

Panel Members Present:
Dame Fiona Caldicott – Chair
Dr Alan Hassey
Dr Mark Taylor
Anne Stebbing
Dr James Wilson
Eileen Phillips
Dr Joanne Bailey
Rakesh Marwaha
John Carvel
Chris Cox

In Attendance:
Jenny Westaway
Ross Thornton
Karen Swift
David Riley
Sandra Lomax

Guests:
Lorraine Jackson - Department of Health (Item 3)
Nicola Perrin – Understanding Patient Data (Item 4)
Will Smart – NHS England (Items 5 & 6)
Samantha Pryke - Department of Health (Item 5)

1. Welcome, apologies and declarations of interest

Apologies were noted from Mark Golledge, Dr Chris Bunch, Richard Wild and Professor Martin Severs. Sandra Lomax, deputy chair of the UK Caldicott Guardian Council (UKCGC), attended as Dr Chris Bunch's alternate.

Declarations of interest were noted from Sandra Lomax as she works for a training provider and James Wilson whose brother-in-law has been made Chief Whip.

Dame Fiona left Panel at 15:30 along with Jenny Westaway to attend the Lords Select Committee on Artificial Intelligence (AI). Dr Alan Hassey chaired the remaining agenda items in her absence.

2. Minutes from previous meeting, actions and decisions

The minutes from the panel meeting held on 19 September 2017 were accepted as an accurate record of the meeting. There were four open actions. All other actions were completed prior to this meeting.

3. Sponsor's update, including the implementation of the National Data Opt-out and the cyber dry run

Lorraine Jackson attended to discuss implementation of the National Data Opt-out, the cyber dry run and some of the policy issues the Department is currently addressing. Panel members asked Lorraine a questions and discussions followed.

Action: 21.11.17/3.1: Request Lorraine Jackson provides more detail on the policy work around data definitions being undertaken to support the implementation of the National Data Opt-out.
Action: 21.11.17/3.2: Share the details of the concerns raised by a member of the public relating to use of data in cancer with Panel members.

4. Guest Speaker – Understanding Patient Data: update.

Nicola Perrin attended to update the panel on work that the Understanding Patient Data project has been doing. She shared their annual report which covers the first year's progress, and plans for year two.

5. Guest Speaker – Cybersecurity – CIO review of Wannacry attack.

Will Smart and Samantha Pryke attended to present the first draft of the Chief Information Officer's review of the health and care system response to the WannaCry cyber-attack. They discussed the headline findings, recommendations and moving to the implementation stage. It was agreed that Will would provide the panel with further detail on the recommendations.

Action 22.05.17/8.2: The office to work with the Department and Will Smart to keep the panel updated on progress on this review and to circulate an updated version of the report to panel members before publication.

6. Guest Speaker – Target Architecture update.

Will Smart also presented his paper regarding the proposed Information Governance components and controls proposed for the Target Architecture project he and colleagues are progressing. Will reported that a working group has been formed and could provide further details to the National Data Guardian and her panel as they progress their work.

Action: 21.11.17/6.1: The office to invite Will Smart and Dawn Monaghan to present an update on the target architecture work at a future steering group.

Action: 21.11.17/6.2: The office to invite Professor Martin Severs a future Steering Group to present on the subject of whole shared records.

7. Onora O'Neill's is Data Protection Obsolescent? Paper.

Baroness Onora O'Neill wrote a paper "Is Data Protection Obsolescent?" for the reasonable expectations seminar held by the NDG jointly with Sheffield University in Sheffield in July 2017. Dr James Wilson has reviewed "Is Data Protection Obsolescent?" and presented his paper summarising and discussing the points made by Baroness O'Neill to the panel.

Action: 21.11.17/7.1: James Wilson to inform Baroness O'Neill that the Panel have discussed her report.

8. The Royal Society's report on machine learning.

Dr James Wilson provided a short summary of his findings from his review of the Royal Society report, *Machine learning: the power and promise of computers that learn by example*. Panel members asked James Wilson several questions and a discussion followed.

Action: 21.11.17/8.1: Office to ask Dame Fiona if she would like greater mention of Artificial Intelligence (AI) in the NDG's annual report (possibly in the looking forward section). Eileen Phillips will then amend the paper as necessary.
Action:21.11.17/8.2: The NDG to consider if it would be beneficial to consider resource with a specialist AI skillset for future Panel membership.

9. Reasonable expectations event summary and next steps

Mark Taylor led a discussion about what further steps the NDG could consider, to progress the work around reasonable expectations. Panel members were provided with a copy of the report which John Carvel has prepared of the seminar held in October 2017 by the NDG and Sheffield University. The aim is to publish this report and the previous report of the Sheffield seminar in late November or early December 2017 alongside an authored article presenting the work in an accessible way.

The next immediate step is for a citizen jury to be held in January 2018 where 18 members of the public will consider over three days when it would be reasonable to expect health and care information to be shared, and when it would be reasonable to expect information to be kept private.

Action: 21.11.17/9.1: Find out the timescales for the review of the 2003 Confidentiality: NHS Code of Practice and understand how the NDG's Panel will have the opportunity to review and feed into this work.
Action:21.11.17/9.2: James Wilson and Mark Taylor have agreed to work together to discuss the potential of a conceptual academic paper on reasonable expectations and will keep the NDG's Panel informed of their progress.
Action: 21.11.17/9.3: Sandra Lomax to investigate potential of utilising the UKCGC presence at the IGA conference to discuss reasonable expectations and capture real life examples.
Action: 21.11.17/9.4: Panel to consider a further piece of work after the citizen jury.

11. Any other business

Mark Taylor mentioned that the ICO Grants Programme has approved funding support for independent research into four privacy and data protection challenges.

The NDG's Panel would like to place on record our sincere thanks to Dr Mark Taylor for his contribution as an NDG Panel member and we all wish Mark good luck in the future.

Action: 21.11.17/10.1: Provide details of the ICO Grants Programme to NDG's Panel members and consider inviting the research projects team to present at a future NDG meeting.