

Dame Fiona Caldicott, MA FRCP FRCPsych
National Data Guardian for Health and Social Care
3rd Floor
1Trevelyan Square
Boar Lane
LEEDS
LS1 6AE

Sent by email: ndgoffice@nhs.net

9 August 2018

Dear Dame Fiona,

Common law duty of confidentiality and the Royal Free London NHS Hospital Trust's use of patient data in the DeepMind Streams application

Further to our telephone call and the publication of the Royal Free's audit report on its use of Streams last month, I am writing to request your views on the approach taken to the duty of confidentiality in the report. I understand your view might be quite different, and that the approach set out gives you some cause for concern.

As you know, data protection law requires that personal data must be processed lawfully. This means it must be processed in accordance with any duty of confidentiality that applies. It is therefore important that I and my office understand how health organisations can avoid breaching their duty of confidence when implementing new technologies such as Streams, and I am not aware of any guidance currently available to organisations that specifically addresses this.

I understand that the Health Research Authority has some plans to address this issue in a workshop in September, and that representatives from both our offices will attend, as well as many other health sector organisations. This is a very positive step. However, I am keen, as I know you are, to prevent any misunderstanding in the meantime, so would be grateful if you'd share your views with my office.

I look forward to our offices continuing to work constructively together on these and other matters, to increase public trust in health organisations that process their data.

Yours sincerely,



Elizabeth Denham
Information Commissioner