

Minutes of the meeting

National Data Guardian's Panel Meeting



12.04.2022



Microsoft Teams Virtual Meeting

Panel members present:

Dr Nicola Byrne
Andrew Hughes
Dr Chris Bunch
Dr Edward Dove
Eileen Phillips
Prof Ian Craddock
Prof James Wilson
Dr Joanne Bailey
John Carvel

Rakesh Marwaha
Rob Shaw
Sam Bergin Goncalves

NDG Office staff in attendance:

Karen Swift
Ryan Avison
Carl Beesley

Guests:

Cassie Smith

1. Welcome, apologies, and declarations of interest:

The National Data Guardian (NDG) Dr Nicola Byrne chaired the meeting. Apologies were received from Mr Adrian Marchbank, Dr Fiona Head, Maisie McKenzie and Dr Arjun Dhillon.

No declarations of interest pertaining to items on the agenda were recorded.

2. Minutes from previous meeting, actions, and decisions:

The minutes from the NDG's panel meeting held on 08 March 2022 were accepted as an accurate record of the meeting.

Head of the Office, Ryan Avison, provided an update on the one open action.

All other actions were agreed as having been completed prior to this meeting.

3. Key updates:

Head of the Office, Ryan Avison, provided an update for panel on recent NDG activities:

786: National Data opt-out (NDOO) compliance

The deadline for health and care organisations to comply with the national data opt-out policy is now 31 July 2022.

1419: Control of patient information (COPI) notice exit guidance

The Department of Health and Social Care (DHSC) has shared a guide with the NDG, which is intended to support organisations currently relying on the COPI notices to prepare for 30 June 2022 when the notices are due to expire.

1569: NDG meeting with Lord Kamall

The NDG had a meeting with Lord Kamall, Parliamentary Under-Secretary of State for Technology, Innovation and Life Sciences and Simon Madden, Director of Data Policy at DHSC on 04 April 2022. They discussed a proposal put to relevant members of the House of Lords (backing the now defeated in commons amendment, which sought to keep statutory protections in place from Part 9, Chapter 2 of the Health and Social Care Act 2012 and ensure that NHS England do not take on this responsibility because of a potential conflict of interest in their role).

They discussed the DHSC's commitment to ensuring there are robust safeguards around the national safe haven for data when this moves from NHS Digital to NHS England and NHS Improvement, including independent scrutiny of data access requests (both internal and external) and, furthermore, the strengthening of safeguards on a statutory basis, a proposal the NDG strongly supported. The NDG was assured by the commitment given by Lord Kamall that the independent scrutiny group would be sufficiently resourced with the requisite expertise and authority to exercise its function effectively.

1615: NDG planning and priorities for 2022/2023

The office has started work on the draft plan for the NDG priorities for 2022-2023. The office will produce the draft plan and ask panel members to provide comments back to the office. It was agreed that the draft plan will be provided before the annual report is released.

4. 1605 House of Commons Science and Technology Committee - Right to privacy digital data - evidence session:

The NDG is appearing in front of the Science and Technology Committee on 20 April 2022 to provide oral evidence on their inquiry 'The right to privacy: digital data'. We provided written evidence to the Committee on this on 07 February 2022.

Head of the Office, Ryan Avison, led the discussion and asked panel members to comment on the briefing pack. This will inform discussions at the Science and Technology Committee.

5. 657: Privacy Enhancing Technologies (PETs) - PETs for Public Good with Plexal and Information Commissioners Office (ICO):

Carl Beesley, Privacy Specialist, Office of the National Data Guardian provided panel with an overview of the ICO's recent work, *Privacy Enhancing Technologies (PETs) for public good*. Staff from the Office of the National Data Guardian attended a series of workshops that looked to define current data sharing challenges in healthcare and how the adoption of PETs might be able to resolve those issues. The report produced from this work was shared with Panel.

Panel members discussed the key themes from the report and made several observations and suggestions. Discussion focused on a need to ensure that core data protection principles are not portrayed as barriers to PETs adoption and that the common law duty of confidence is addressed in any subsequent health sector specific guidance.

6. 1103: Health Data Research UK (HDR UK) work on the data governance strategy:

Cassie Smith, Head of Legal for HDR UK, attended panel and presented an overview of the membership, objectives and priorities of the pan-UK Data Governance Steering Group.

Panel members felt that this was a clear and helpful presentation and made a number of suggestions as to how further clarity could be brought to some areas.

It was decided that this item required further discussion and that the NDG would be pleased to contribute to this. HDR UK agreed to stay connected about their findings and plans on this work stream.

7. Any Other Business:

1463: Dr Ben Goldacre health data review

Professor Ben Goldacre has published his findings from the independent review to drive innovation and improve healthcare through safer use of health data on 07 April 2022.

The review was commissioned by the Secretary of State for Health and Care and will be responded to

in the forthcoming Data Strategy for Health and Social Care which sets the direction for the use of data in a post-pandemic healthcare system. The NDG confirmed she will be raising the publication of the review with the DHSC sponsor team in relation to the government's planned response to it and its plans for taking recommendations forward, with a view to discussing the government's response at a future panel meeting.

No other items were raised by members in advance of the meeting.
