

Minutes of the meeting

National Data Guardian's Panel Meeting



13.12.2022



Microsoft Teams Virtual Meeting

Panel members present:

Dr Nicola Byrne
Mr Adrian Marchbank
Andrew Hughes
Dr Chris Bunch
Dr Edward Dove
Dr Fiona Head
Eileen Phillips
Prof Ian Craddock

Prof James Wilson
Dr Joanne Bailey
John Carvel
Maisie McKenzie
Rakesh Marwaha
Sam Bergin Goncalves
Dr Arjun Dhillon

Observers in attendance:

Dame Moira Gibb

NDG Office staff in attendance:

Ryan Avison
Carl Beesley
Dr Vicky Chico
Dr Helen Bauckham

Guests:

None

1. Welcome, apologies, and declarations of interest

National Data Guardian (NDG), Dr Nicola Byrne, chaired the meeting. Apologies were received from Rob Shaw.

Dr Arjun Dhillon attended the meeting for items 1-4 only.

Prof Ian Craddock joined the meeting at 12:30pm.

Dr Fiona Head attended the meeting from 13:00-14:00pm.

Maisie McKenzie attended the meeting from 12:00-13:00pm.

There were no new declarations of interest.

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

Panel accepted the minutes from its 8 November 2022 meeting as an accurate record.

Head of the Office of the National Data Guardian (ONDG), Ryan Avison, gave an update on the actions, confirming they were all complete.

3. UKCGC update

Dr Chris Bunch provided an update for panel on recent UKCGC activities:

- Dr Arjun Dhillon chaired a meeting of the UKCGC on 06 December 2022. No guests were invited to this

meeting, instead discussions focused on; UKCGC priorities for this coming year, roles and responsibilities of council members, defining the processes for bringing new members to Council and appointing a UKCGC vice-chair.

- A working group of council members has been established to explore appropriate curriculum and professional training standards for Caldicott Guardians.
- Dr Chris Bunch will be retiring from his position as UKCGC vice-chair, and a process has begun to appoint a new vice-chair. The council is aiming to appoint a new vice-chair by February 2023.
- There was a UKCGC breakfast club on 25 Nov 2022. The breakfast club runs monthly and will begin again in the New Year.

4. 299/1541: Update on ICB letter

Dr Vicky Chico presented an update for panel on the letter the NDG sent to integrated care boards (ICB). The letter was sent to the ICB Information Governance and Data Forum on 2 November 2022 and then sent to all ICB Senior Information Risk Owners (SIRO) on 07 November 2022. Professor James Wilson and Dr Vicky Chico attended the ICB Information Governance and Data Forum on 9 November 2022 to answer questions on the letter. The ICB letter has received media attention and has been requested to be included in the House of Commons/Lords library.

The Health Research Authority's Confidentiality Advisory Group (CAG) has extended the current Section 251 (NHS Act 2006) support for relevant risk stratification activities until September 2023. NHS England (NHSE) is now reviewing ICB risk stratification activity and ICBs have

been asked to respond to NHSE to outline how they are using patient information for risk stratification.

Other points arising:

- Panel members commented that this is a valuable letter and were assured to hear progress is being made.
- There is variance in the level of understanding across ICBs, therefore further work needs to be done to increase support for information governance teams and to ensure that risk stratification and population health management activities using patient data are undertaken in a transparent manner.

Any further updates on the ICB letter will be brought to Panel early in 2023.

5. 1589: NDG feedback on NHS Digital transfer to NHS England / safe haven arrangements

Ryan Avison provided a background on the transfer of NHS Digital's data safe haven arrangements to NHS England, which is happening as part of the merger. This included an update on the Statutory Instrument (SI) that will describe and allow the transfer of functions from NHS Digital to NHS England.

The NDG provided advice to the Department of Health and Social Care (DHSC) on a previous version of the SI and met with DHSC to discuss the feedback. This feedback has also been shared with Peers from the House of Lords engaged on this legislation. The SI contains a duty for the Secretary of State to publish statutory guidance on how NHSE will exercise its data functions.

The revised SI and subsequent guidance were received on 7 December 2022, for NDG review and input.

Discussions focussed on:

- How the oversight group might function, and how it will provide its advice or guidance.
- The membership of any new oversight group and that membership's effect on public trust.
- The approaches for internal access to data and external access to data.
- The definition and principles of a 'safe haven'.

2022.12.13/5.1: The NDG will continue to advise DHSC on the SI and guidance.

6. Any other business

Dr Joanne Bailey has been appointed to the Health Research Authority's Confidentiality Advisory Group (CAG); panel congratulated Joanne.

Updates were provided on the NDG's priorities for 2022-2023, including on the public benefits guidance and on

work towards a project looking at reasonable expectations.

1168: Public benefits guidance

Ryan Avison provided an update on the release of the NDG's public benefit guidance on behalf of Layla Heyes (Communication Manager, ONDG). The guidance will be published on 14 December 2022 and key stakeholder organisations will be supporting with communications on the release of the guidance. Further communications on the guidance will follow in January 2023.

1405: Reasonable expectations project

Dr Helen Bauckham provided an update on the reasonable expectations project. The project has now received funding confirmation. We anticipate going out to tender in January 2023, to identify a suitable research organisation to complete the qualitative and quantitative phases of the project. A steering group has been established for the project, and partner programmes have provisionally been onboarded to co-design and develop the transparency materials. Project initiation is expected to be in early March 2023.

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