

Independent Group Advising on the Release of Data (IGARD)

Minutes of meeting held 23 March 2017

Members: Joanne Bailey, Anomika Bedi, Chris Carrigan (Chair), Nicola Fear, Jon Fistein, Debby Lennard, Eve Sariyiannidou

In attendance: Helen Buckels (observer), Tina Davies-Taylor (observer), Jen Donald, Louise Dunn, Frances Hancox, Julia King, Stuart Richardson, Kimberley Watson (observer), Vicki Williams

Apologies: Sarah Baalham, Kirsty Irvine, James Wilson

<p>1</p>	<p>Declaration of interests</p> <p>No conflicts of interests were declared.</p> <p>Review of previous minutes and actions</p> <p>The minutes of the 16 March IGARD meeting were reviewed and agreed as an accurate record of the meeting.</p> <p>Action updates were provided (see Appendix A).</p> <p>Out of committee recommendations</p> <p>An out of committee report was received (see Appendix B). There was a discussion about the process where for some applications DAAG had previously signed off the application caveats that did not relate to privacy notices, and the Director for Data Dissemination had now signed off the outstanding privacy notice caveats based on assurances that the applicants met the necessary minimum criteria.</p> <p>Action: To provide additional information about the application checks made by the Pre-IGARD process before applications were submitted to an IGARD meeting.</p> <p>Action: To provide a response to previously raised IGARD queries about indemnity.</p>
<p>2</p>	<p>Privacy notice briefing</p> <p>IGARD noted that they had not yet received a copy of the updated paper following the discussion of the existing draft at a previous educational session. IGARD restated their support for the proposed nine criteria for privacy notices and hoped that NHS Digital would implement reviews against these criteria as soon as reasonably possible.</p>
<p>3</p> <p>3.1</p>	<p>Data applications</p> <p><u>London Borough of Hackney Council - Matching of the NHS Number for Social Care Clients (Presenter: Steve Smith) NIC-86183-K1Q2W</u></p> <p>Application: This application requested access to NHS number and demographic details, on an ongoing operational basis, for patients accessing social care services. It was noted that this application, as well as the two following applications (NIC-86202 Tameside Metropolitan Borough Council and NIC-86206 West Sussex County Council), were based on the similar applications from Leeds Council and Calderdale Council that had been considered by DAAG at the 29 November 2016 meeting. IGARD received a verbal update on the Personal</p>

Demographics Service (PDS) and the proposed NHS number matching, which it was hoped would improve integration between NHS services and social care.

Discussion: IGARD acknowledged that DAAG had discussed the earlier applications for NHS number matching in detail, and that a number of the queries DAAG had previously raised seemed to have been reasonably addressed in these new applications. However it was noted that for previous applications more detail had been requested about how data would be used and shared with healthcare organisations via the care records following NHS number matching and IGARD asked for the current applications to be updated to also include this information. It was agreed that the standard template application for NHS number matching should be updated to request this information. Further information was also requested about who would have access to the PDS tracing service before matching took place.

There was a discussion about the legal basis under which data would be shared. IGARD noted that DAAG had previously discussed this in detail, and requested sight of a briefing paper about the legal basis that had been shared with DAAG in the previous year. IGARD questioned why the application referred to NHS Digital releasing data under a direction; it was agreed that this was misleading in the context of the application and that this reference should be removed. In addition it was agreed the application should be amended to clarify how the Localism Act 2011 related to this particular use of data.

IGARD queried a reference in the application to a third party Spine Mini Service Provider; it was agreed the application wording should be amended to be clear that this organisation provided software but would not themselves have access to the data described in this application.

The proposed opt-out process was discussed and IGARD suggested that given the potentially vulnerable clients involved, the applicant should carefully consider how individuals were made aware of their rights, such as providing printed leaflets rather than solely relying on online information. There were some concerns that a vulnerable individual would be unlikely to want to contact the Director of Adult Services directly in order to opt-out.

IGARD queried whether the full updated privacy statement wording would be uploaded to the applicant's website, or whether only the sections in red would be updated as it was noted one correction in particular had not been highlighted red. It was confirmed the full text was expected to be updated on the website. A further query was raised about a reference in the application to the 'PDS Access IG Scrutiny Process' and it was agreed this wording would be clarified.

IGARD noted the information provided about planned retention periods and agreed it was helpful to see how this would differ depending on the purposes for which data would be used, such as within mental health or safeguarding case files.

Outcome: Recommendation to approve, subject to conditions:

- Providing further details about how data will be used and shared with healthcare organisations via the care records following NHS number matching, with clarification of whether this will include CCGs. IGARD suggested that this should be a standard requirement in the template application.
- Providing further information about who has access to the PDS tracing service pre-matching.
- Including a clear statement in section five of the application about what uses of data are in scope as listed in section 4, and that any other uses of data such as mental health are out of scope of this particular application.

IGARD noted that the application summary section should be amended to remove or clarify a reference to NHS Digital releasing data under Directions, to clarify how the Localism Act applies to this use of data, and to correct a reference to PDS Access IG Scrutiny. Section five of the application should be updated to include a statement that the Spine Mini Service Provider only provide software and will not have access to this data. IGARD advised that given the vulnerable individuals involved, the applicant should carefully consider how clients are

made aware of fair processing information and their right to opt out.
It was agreed that the previous briefing paper on the use of NHS number would be circulated to IGARD members.
It was agreed that IGARD would review these conditions out of committee.

3.2

Tameside Metropolitan Borough Council (Presenter: Steve Smith) NIC-86202-N8J7S

Application: This application requested access to NHS number and demographic details, on an ongoing operational basis, for patients accessing social care services. It was confirmed that this application was based on the same template as NIC-86183-K1Q2W London Borough of Hackney Council.

Discussion: IGARD reiterated the points that had been raised for NIC-86183-K1Q2W London Borough of Hackney Council.

In addition it was noted that the uses of data listed in section four of the application, when describing data retention period, were more limited than the uses that had been described in the previous application from London Borough of Hackney Council; it was explained that this was because the applicant would not use data for those other purposes as they were currently out of scope. IGARD agreed that the application should be amended to include a clear statement in section five that only the uses of data listed in section five were currently within scope of this application, as any additional uses of data would need to be subject to a future updated application. It was agreed that this should also be reflected in the other two applications.

Outcome: Recommendation to approve, subject to conditions:

- Providing further details about how data will be used and shared with healthcare organisations via the care records following NHS number matching, with clarification of whether this will include CCGs. IGARD suggested that this should be a standard requirement in the template application.
- Providing further information about who has access to the PDS tracing service pre-matching.
- Including a clear statement in section five of the application about what uses of data are in scope as listed in section 4, and that any other uses of data such as mental health are out of scope of this particular application.

IGARD noted that the application summary section should be amended to remove or clarify a reference to NHS Digital releasing data under Directions, to clarify how the Localism Act applies to this use of data, and to correct a reference to PDS Access IG Scrutiny. Section five of the application should be updated to include a statement that the Spine Mini Service Provider only provide software and will not have access to this data. IGARD advised that given the vulnerable individuals involved, the applicant should carefully consider how clients are made aware of fair processing information and their right to opt out.

It was agreed that the previous briefing paper on the use of NHS number would be circulated to IGARD members.

It was agreed that IGARD would review these conditions out of committee.

3.3

West Sussex County Council (Presenter: Steve Smith) NIC-86206-K6V1R

Application: This application requested access to NHS number and demographic details, on an ongoing operational basis, for patients accessing social care services. It was confirmed that this application was based on the same template as NIC-86183-K1Q2W London Borough of Hackney Council and NIC-86202-N8J7S Tameside Metropolitan Borough Council.

Discussion: IGARD reiterated the points that had been raised for NIC-86183-K1Q2W London Borough of Hackney Council and NIC-86202-N8J7S Tameside Metropolitan Borough Council.

There was a discussion about the table provided in section four, as this was presented

differently to the previous two applications and seemed to provide less information. IGARD discussed how batches of data would be made available to applicants and the need to ensure that data would not be processed excessively; assurances were given that appropriate governance controls around the access to data would be in place within the applicant organisations.

Outcome: Recommendation to approve, subject to conditions:

- Providing further details about how data will be used and shared with healthcare organisations via the care records following NHS number matching, with clarification of whether this will include CCGs. IGARD suggested that this should be a standard requirement in the template application.
- Providing further information about who has access to the PDS tracing service pre-matching.
- Including a clear statement in section five of the application about what uses of data are in scope as listed in section 4, and that any other uses of data such as mental health are out of scope of this particular application.

IGARD noted that the application summary section should be amended to remove or clarify a reference to NHS Digital releasing data under Directions, to clarify how the Localism Act applies to this use of data, and to correct a reference to PDS Access IG Scrutiny. Section five of the application should be updated to include a statement that the Spine Mini Service Provider only provide software and will not have access to this data. IGARD advised that given the vulnerable individuals involved, the applicant should carefully consider how clients are made aware of fair processing information and their right to opt out.

It was agreed that the previous briefing paper on the use of NHS number would be circulated to IGARD members.

It was agreed that IGARD would review these conditions out of committee.

3.4

Nuffield Trust (Presenter: Jen Donald) NIC-384572-J7P6Y

Application: This application requested to amend an existing agreement (NIC-384572-J7P6Y) so that one research project could make use of more HES data for the previously agreed purpose, and so that the data held could be used for a new additional research project evaluating improvements to care of older people with hip fracture. IGARD were informed that the applicant's DPA registration expiry date listed in the application was now incorrect and that this would be updated in the application.

Discussion: IGARD queried the amount of data requested and whether all the projects made use of the same amount of data. It was explained that when the previous application had been discussed by DAAG (15 November 2016) it was agreed that the applicant would work over the year of the agreement to minimise the amount of data they used. It was confirmed that the proposed agreement end date had not been changed by the proposed amendment, so it was anticipated that the applicant would still provide an update about their data minimisation efforts when a renewal application was submitted within the previously agreed timescales.

A further query was raised about the special condition wording regarding Wavex Technology and the restriction that they must not access the data. IGARD noted that there had previously been discussions about whether or not Wavex should be considered a data processor, which had resulted in this special condition wording, and IGARD requested sight of a clearer explanation of why Wavex were not considered to be a data processor in the context of this application.

Outcome: Recommendation to approve.

IGARD asked for sight of a clearer explanation for why Wavex are not considered to be a data processor.

3.5

Methods Analytics Ltd (Presenter: Dickie Langley) NIC-09519-D5G0R

Application: This amendment application requested the additional datasets Diagnostic Imaging Dataset (DIDs), the Mental Health and Learning Disabilities Data Set (MHLDDS), Hospital Episode Statistics (HES) critical care, and a bridging file, as well as adding referral and Referral to Treatment codes to the HES data already received. This data would be used to improve the tools created with the already received HES data.

IGARD were informed of an error in the application as some special conditions had not been appropriately reflected in section five but it was confirmed that this would be corrected before a data sharing agreement was created. It was proposed that the applicant would retain a rolling seven years of data, which would include currently retaining a partial data year until the next full year of data was made available.

Discussion: IGARD noted that although only pseudonymised data would be provided to the applicant, the applicant had published some information on their website about their use of data. Concerns were raised that this information included some misleading or potentially incorrect statements and IGARD considered that this would not meet the recently agreed NHS Digital minimum criteria for applicant privacy notices. IGARD welcomed the applicant's efforts to provide information for the general public but advised that the applicant should remove any misleading information as soon as possible.

The amount of data requested was discussed. IGARD noted that the number of data years seemed larger than the number of data years made available to other applicants for similar purposes, and there were some concerns that this seemed inconsistent as the application did not provide a sufficiently clear justification for why the additional data years were necessary. However it was acknowledged that the applicant's existing data sharing agreement had previously been agreed to allow this number of data years to be provided. IGARD asked for the proposed agreement end date to be limited to three months, to more closely align with the existing agreement end date, so that when a renewal application was submitted in three months a further discussion could take place and the applicant could potentially provide a clearer justification for why this amount of data was necessary to their purposes. In addition IGARD noted that the application included using data to provide services to non-NHS organisations including charities and not for profit organisations; it was noted that a recent application to DAAG from a different organisation had resulted in a requirement to remove the use of data for charities and not for profit organisations. IGARD reflected that when a renewal application was submitted this should be considered in more detail to ensure consistency with the requirements placed on other applicant organisations.

IGARD noted that NHS Digital were currently going through a process to update the disclosure control rules that would apply to this type of data, and suggested that the special condition relating to disclosure controls should be amended to reflect this. There was a brief discussion about the facility for consultants to see data about their own performance without small number suppression and it was agreed this was appropriate.

Outcome: Recommendation to approve for a period of three months only, subject to conditions:

- Amending the DSA end date to the end of June 2017.
- Amending the special condition wording on disclosure control to be clear these rules may be superseded when updated disclosure controls are published.
- The applicant should remove misleading or incorrect statements from the information on their website as soon as possible to ensure they remain compliant with the requirements of the Data Protection Act 1998.

It was noted the application would be amended to reflect some of the special conditions in section five where appropriate.

IGARD noted that when a renewal application was submitted in three months' time, this would need to include a clear justification for the number of data years requested; the use of data by charities and non-profit organisations should be considered in more detail at that time.

It was agreed that IGARD would review these conditions out of committee.

3.6

NHS Digital - National Diabetes Audit (Presenter: Louise Dunn) NIC-392221-P4V1G

Application: This application had previously been considered at the 9 March 2017 meeting when IGARD had deferred making a recommendation pending clarification on two points. The updated application now confirmed that no cross-border sharing would take place between England and Wales, and confirmation of the legal basis to process Office for National Statistics (ONS) mortality data had been provided.

Discussion: IGARD were content that the previously raised queries had been satisfactorily addressed. A query was raised about whether further confirmation was needed that ONS were satisfied with the commissioning letter provided, but it was suggested that this was not necessary as the content of the letter was unchanged since the previous ONS review.

Outcome: Recommendation to approve.

3.7

Somerset CCG - Symphony Vanguard (Presenter: Stuart Richardson) NIC-43362-G7T9X

Application: This was a new application requesting the use of pseudonymised Secondary Uses Service (SUS) data, local provider flows, mental health (MHMDS, MHLDDS, MHSDS), Maternity Services Dataset (MSDS), Improving Access to Psychological Therapies (IAPT), Children and Young People's Health Dataset (CYPHs), and DIDs data for the purposes of the Symphony Vanguard in addition to other more standard commissioning, risk stratification and invoice validation purposes. It was noted that SUS data identifiable at the level of NHS number would be used for risk stratification and invoice validation. South Central and West CSU and the University of York would act as data processors. IGARD were informed of an error in the application where this referred to identifiable social care data being sent to the CSU, where in fact this would be pseudonymised before social care data was shared with the CSU.

Discussion: There was a discussion about the description of data flowing into a 'ring fenced area' before being processed by a 'black box tool' and IGARD suggested that these processes could be explained more clearly in future.

IGARD noted that the data flow diagram appeared to indicate that type two objections would be applied to all identifiable data, but in fact objections would not apply to the data provided directly from GPs and social care. It was suggested this should be made clearer on the diagram.

IGARD queried the privacy notice review process, as it was noted that the applicant organisation's privacy notice had been reviewed against the new nine criteria but it was not clear from the application whether this review had been carried out by appropriately trained and experienced staff. There was a discussion about the current process and IGARD were informed that within the next few weeks, privacy notice reviews would begin to be undertaken by information governance staff within the DARS team.

A description of data as 'identifiable at a Pseudonymised Patient Level' was queried and IGARD asked for this wording to be clarified. IGARD noted an error in the proposed agreement end date and it was agreed this would be corrected to 2018. There was a brief discussion of the DPA registration wording for the University of York and IGARD suggested that this should be updated to be clear they process data for this purpose, as it was not considered to be a standard research purpose. IGARD asked for future applications to make clear whether NHS Digital had reviewed each organisation's DPA registration wording and advised the applicants appropriately. It was agreed that section five of the application should be updated to include a statement that only substantive employees of the data controller or named data processors would have access to the data, and to be clear that this applied to all the described purposes and different datasets.

There was a discussion about the amount of data provided and linked, and whether the data could truly be considered anonymised in context. IGARD noted that broader discussions

needed to take place with NHS Digital about how to determine whether data used in this way could be considered anonymised in context and it was suggested that the data sharing agreement for this current application should be limited to six months, with a further discussion to take place when a renewal application was submitted about whether the data could be considered anonymised in context.

Outcome: Recommendation to approve for a period of six months only.

The application should be amended to limit the proposed agreement end date to six months. When a renewal application is submitted in six months' time this should include a clearer justification for why this data was considered AIC.

An error in the summary and section five of the application should be corrected to reflect the use of the pseudonymisation tool as shown on the data flow diagram. The data flow diagram should be amended to be clear that type two objections will not be applied to the data shared from GPs and social care. References to data 'identifiable at a Pseudonymised Patient Level' should also be corrected. Section five of the application should be amended to be clear that data will only be processed by substantive employees of the data controller and processors. IGARD advised that the University of York should review their DPA registration to ensure it reflects the use of data for this purpose and for these data subjects.

IGARD advised that a special condition should be included within the DSA to state that: "As a result of your application IGARD would like to draw your attention to the importance of the accessibility and clarity of your Privacy Notice. In the interests of transparency, you are advised to regularly review your notice against the ICO's Privacy Notices Code of Practice to ensure it reflects best practice. You will be expected to demonstrate progress against this recommendation in any audit undertaken and for any renewal or new application for data."

3.8

Harrogate and Rural Districts CCG (Presenter: Stuart Richardson) NIC-90665-Z9L7G

Application: This application was to consolidate and renew the applicant's existing data sharing agreements to use pseudonymised SUS data, local provider flows, mental health (MHMDS, MHLDDS, MHSDS), MSDS, IAPT, CYPHs and DIDs data for commissioning purposes as well as using SUS data identifiable at the level of NHS number for risk stratification and invoice validation. No changes were proposed to the data flows previously agreed under the existing data sharing agreements. North of England CSU, eMBED Health Consortium (Kier Business Services Limited and Dr Foster Limited) and the Partnership Commissioning Unit (PCU) hosted by Scarborough and Ryedale CCG would act as data processors.

IGARD were informed that based on recent feedback from IGARD, the data processors Dr Foster Ltd and Kier Business Services had been advised to update their DPA registration wording to better reflect this use of data.

Discussion: IGARD queried the legal status of the PCU and it was confirmed that this was not a separate legal entity to Scarborough and Ryedale CCG. An error was noted on the data flow diagram as this did not reflect the flow of pseudonymised data from the CSU to Harrogate and Rural Districts CCG.

It was agreed that section five of this and all similar applications should be updated to include a statement that only substantive employees of the data controller or named data processors would have access to the data, and to be clear that this applied to all the described purposes and different datasets.

Outcome: Recommendation to approve.

Section five of the application should be amended to be clear that data will only be processed by substantive employees of the data controller and processors. The data flow diagram should be updated to show the flow of pseudonymised data from the CSU to the CCG.

IGARD advised that Dr Foster and Kier should review their DPA registrations to ensure they reflect the use of data for this purpose and for these data subjects in order to comply with the Data Protection Act 1998.

IGARD advised that a special condition should be included within the DSA to state that: "As a result of your application IGARD would like to draw your attention to the importance of the accessibility and clarity of your Privacy Notice. In the interests of transparency, you are advised to regularly review your notice against the ICO's Privacy Notices Code of Practice to ensure it reflects best practice. You will be expected to demonstrate progress against this recommendation in any audit undertaken and for any renewal or new application for data."

3.9

Scarborough and Ryedale CCG (Presenter: Stuart Richardson) NIC-90691-W4B6F

Application: This application was to consolidate and renew the applicant's existing data sharing agreements to use pseudonymised SUS data, local provider flows, mental health (MHMDS, MHLDDS, MHSDDS), MSDS, IAPT, CYPHs and DIDs data for commissioning purposes as well as using SUS data identifiable at the level of NHS number for risk stratification and invoice validation. North of England CSU, eMBED Health Consortium (Kier Business Services Limited and Dr Foster Limited) and the PCU hosted by Scarborough and Ryedale CCG would act as data processors. It was noted that for this application, risk stratification services were under transition from North of England CSU to eMBED and that both organisations would provide risk stratification until 20 July 2017 at which point the CSU would be required to provide data destruction certificates for this data.

Discussion: IGARD reiterated the points raised during the discussion of NIC-90665-Z9L7G Harrogate and Rural Districts CCG. It was confirmed that the data flow diagram for this application was correct.

Outcome: Recommendation to approve.

Section five of the application should be amended to be clear that data will only be processed by substantive employees of the data controller and processors.

IGARD advised that Dr Foster and Kier should review their DPA registrations to ensure they reflect the use of data for this purpose and for these data subjects in order to comply with the Data Protection Act 1998.

IGARD advised that a special condition should be included within the DSA to state that: "As a result of your application IGARD would like to draw your attention to the importance of the accessibility and clarity of your Privacy Notice. In the interests of transparency, you are advised to regularly review your notice against the ICO's Privacy Notices Code of Practice to ensure it reflects best practice. You will be expected to demonstrate progress against this recommendation in any audit undertaken and for any renewal or new application for data."

3.10

Vale of York CCG (Presenter: Stuart Richardson) NIC-90708-H6D9L

Application: This application was to consolidate and renew the applicant's existing data sharing agreements to use pseudonymised SUS data, local provider flows, mental health (MHMDS, MHLDDS, MHSDDS), MSDS, IAPT, CYPHs and DIDs data for commissioning purposes as well as using SUS data identifiable at the level of NHS number for risk stratification and invoice validation. North of England CSU, eMBED Health Consortium (Kier Business Services Limited and Dr Foster Limited) and the PCU hosted by Scarborough and Ryedale CCG would act as data processors.

Discussion: IGARD reiterated the points raised during the discussion of NIC-90665-Z9L7G Harrogate and Rural Districts CCG and it was noted that the data flow diagram contained the same error.

Outcome: Recommendation to approve.

Section five of the application should be amended to be clear that data will only be processed by substantive employees of the data controller and processors. The data flow diagram should be updated to show the flow of pseudonymised data from the CSU to the CCG.

IGARD advised that Dr Foster and Kier should review their DPA registrations to ensure they reflect the use of data for this purpose and for these data subjects in order to comply with the

Data Protection Act 1998.

IGARD advised that a special condition should be included within the DSA to state that: "As a result of your application IGARD would like to draw your attention to the importance of the accessibility and clarity of your Privacy Notice. In the interests of transparency, you are advised to regularly review your notice against the ICO's Privacy Notices Code of Practice to ensure it reflects best practice. You will be expected to demonstrate progress against this recommendation in any audit undertaken and for any renewal or new application for data."

3.11

Calderdale CCG (Presenter: Stuart Richardson) NIC-90651-Q8W4T

Application: This application was to consolidate and renew the applicant's existing data sharing agreements to use pseudonymised SUS data, local provider flows, mental health (MHMDS, MHLDDS, MHSDS), MSDS, IAPT, CYPHs and DIDs data for commissioning purposes as well as using SUS data identifiable at the level of NHS number for risk stratification and invoice validation. North of England CSU, eMBED Health Consortium (Kier Business Services Limited and Dr Foster Limited) and The Health Informatics Service (THIS) hosted by Calderdale & Huddersfield NHS Foundation Trust would act as data processors.

Discussion: IGARD reiterated the points raised during the discussion of NIC-90665-Z9L7G Harrogate and Rural Districts CCG.

There was a discussion about the number of different data processors used by some CCG applications and the importance of ensuring that excessive processing was not taking place. It was agreed that it would be helpful to discuss this as part of an upcoming educational session to consider the challenges faced by CCGs and conflicting pressures such as financial considerations.

IGARD noted that the privacy notice link provided for this CCG currently led to an error message and it was suggested this should be corrected.

Outcome: Recommendation to approve.

Section five of the application should be amended to be clear that data will only be processed by substantive employees of the data controller and processors. The data flow diagram should be updated to show the flow of pseudonymised data from the CSU to the CCG.

IGARD advised that Dr Foster and Kier should review their DPA registrations to ensure they reflect the use of data for this purpose and for these data subjects in order to comply with the Data Protection Act 1998.

IGARD advised that a special condition should be included within the DSA to state that: "As a result of your application IGARD would like to draw your attention to the importance of the accessibility and clarity of your Privacy Notice. In the interests of transparency, you are advised to regularly review your notice against the ICO's Privacy Notices Code of Practice to ensure it reflects best practice. You will be expected to demonstrate progress against this recommendation in any audit undertaken and for any renewal or new application for data." It was noted that the CCG privacy notice link within the application did not currently seem to work.

3.12

Barnsley CCG (Presenter: Stuart Richardson) NIC-90647-G3Q45

Application: This application was to consolidate and renew the applicant's existing data sharing agreements to use pseudonymised SUS data, local provider flows, mental health (MHMDS, MHLDDS, MHSDS), MSDS, IAPT, CYPHs and DIDs data for commissioning purposes as well as using SUS data identifiable at the level of NHS number for risk stratification. North of England CSU, eMBED Health Consortium (Kier Business Services Limited and Dr Foster Limited), Attain Health Management Services Ltd and Rotherham CCG would act as data processors. It was noted that the applicant had not previously received data for invoice validation and that an error in the application would need to be corrected to make this clearer.

Discussion: IGARD reiterated the points raised during the discussion of NIC-90665-Z9L7G Harrogate and Rural Districts CCG. An additional error was noted on the data flow diagram.

Given the addition of two data processors (Attain and Rotherham CCG), IGARD suggested that the applicant CCG should consider updating their privacy notice to include the role of these two organisations in processing data.

Outcome: Recommendation to approve.

The application wording should be amended to be clear the applicant did not previously have an agreement for data to be disseminated for invoice validation.

Section five of the application should be amended to be clear that data will only be processed by substantive employees of the data controller and processors. The data flow diagram should be updated to show the flow of pseudonymised data from the CSU to the CCG, and to list North of England CSU as data processor 1 rather than data processor 2.

IGARD advised that Dr Foster and Kier should review their DPA registrations to ensure they reflect the use of data for this purpose and for these data subjects in order to comply with the Data Protection Act 1998.

IGARD advised that a special condition should be included within the DSA to state that: "As a result of your application IGARD would like to draw your attention to the importance of the accessibility and clarity of your Privacy Notice. In the interests of transparency, you are advised to regularly review your notice against the ICO's Privacy Notices Code of Practice to ensure it reflects best practice. You will be expected to demonstrate progress against this recommendation in any audit undertaken and for any renewal or new application for data."

IGARD advised that the applicant might wish to consider updating their privacy notice in particular to list the new data processors.

3.13

Rotherham CCG (Presenter: Stuart Richardson) NIC-90710-D2P5L

Application: This application was to consolidate and renew the applicant's existing data sharing agreements to use pseudonymised SUS data, local provider flows, mental health (MHMDS, MHLDDS, MHSDS), MSDS, IAPT, CYPHs and DIDs data for commissioning purposes as well as using SUS data identifiable at the level of NHS number for risk stratification and invoice validation. Attain Health Management Services Ltd and Rotherham CCG would act as data processors. It was noted that the applicant had not previously received data for invoice validation and that an error in the application would need to be corrected to make this clearer.

Discussion: IGARD reiterated the points raised during the discussion of NIC-90665-Z9L7G Harrogate and Rural Districts CCG. In addition IGARD noted an erroneous reference to Barnsley CCG within the application.

Outcome: Recommendation to approve.

The application wording should be amended to be clear the applicant did not previously have an agreement for data to be disseminated for invoice validation, and to correct a reference to Barnsley CCG.

Section five of the application should be amended to be clear that data will only be processed by substantive employees of the data controller and processors. The data flow diagram should be updated to show the flow of pseudonymised data from the CSU to the CCG.

IGARD advised that Dr Foster and Kier should review their DPA registrations to ensure they reflect the use of data for this purpose and for these data subjects in order to comply with the Data Protection Act 1998.

IGARD advised that a special condition should be included within the DSA to state that: "As a result of your application IGARD would like to draw your attention to the importance of the accessibility and clarity of your Privacy Notice. In the interests of transparency, you are advised to regularly review your notice against the ICO's Privacy Notices Code of Practice to ensure it reflects best practice. You will be expected to demonstrate progress against this recommendation in any audit undertaken and for any renewal or new application for data."

	IGARD advised that the applicant might wish to consider updating their privacy notice in particular to list the new data processors.
4	Any other business It was agreed a note about the IG Toolkit version 14 transition would be circulated out of committee.

Appendix A: Summary of Open Actions

Date raised	Action	Owner	Updates	Status
15/11/16	To update DAAG on the feasibility of providing random samples of data to applicants, and to ask the Production Team to provide DAAG with further information about the options for data minimisation	Garry Coleman	<p>06/12/16: This action was ongoing and it was anticipated an update would be available in mid-January. There had also been a discussion during the training session about data minimisation, with a suggestion for Peter Short to contact the Production Team for further information, and it was agreed that would be incorporated into this action.</p> <p>20/12/16: It was anticipated an update would be available in mid-January.</p> <p>10/01/17: Ongoing. It was agreed that this action would be taken forward by Alan Hassey rather than Peter Short.</p> <p>17/01/17: A number of internal discussions had taken place and it was anticipated an update would be brought to DAAG within the next few weeks.</p> <p>31/01/17: Ongoing. It was agreed the IGARD Chair would request an update on progress of this action.</p> <p>09/03/17: Ongoing. A number of internal discussions continued to take place and it was agreed the action would be taken forward by Garry Colman.</p> <p>23/03/17: Ongoing. There was a suggestion it might be helpful to discuss the type of sampling used by the Department for Work and Pensions.</p>	Open
06/12/16	To query the privacy notice review process within NHS Digital.	Chris Carrigan	<p>13/12/16: This had been discussed with the Caldicott Guardian but further clarification was needed.</p> <p>20/12/16: This action was ongoing in light of developments in other areas, including the drafting of minimum criteria. It was agreed that the action would be taken forward by Dawn Foster and Noela Almeida.</p> <p>10/01/17: Ongoing, pending updated criteria.</p>	Open

			<p>17/01/17: DAAG were given a brief verbal update on the work taking place.</p> <p>24/01/17: Work was ongoing following receipt of the final DAAG comments on the minimum review criteria.</p> <p>31/01/17: A meeting was scheduled to discuss this later in the week.</p> <p>09/02/17: Ongoing. It was agreed this action would be taken forward by the IGARD Chair.</p> <p>16/02/17: It was noted that a meeting with the NHS Digital Caldicott Guardian was scheduled to discuss this.</p> <p>02/03/17: This had been discussed at the educational session and it was agreed the IGARD Chair would contact the Caldicott Guardian following that discussion.</p> <p>16/03/17: IGARD's comments had been shared with the Caldicott Guardian, particularly regarding an unclear table, and the IGARD Chair had requested sight of the updated paper.</p> <p>23/03/17: Ongoing, pending sight of the updated paper.</p>	
10/01/17	To speak to NHS Digital colleagues regarding security assurance for HQIP.	Garry Coleman	<p>24/01/17: This had been raised with NHS Digital.</p> <p>31/01/17: This had been raised with HQIP and it was thought that work was underway to provide assurances.</p> <p>16/02/17: Ongoing. It was suggested that Jon Fistein could support this work.</p> <p>02/03/17: It was agreed the action should be taken forward by Garry Coleman.</p> <p>09/03/17: Security assurance discussions with HQIP and NHS Digital had taken place and it was hoped to be resolved by the end of the month.</p> <p>16/03/17: NHS Digital had received a System Level Security Policy (SLSP) from HQIP and this was currently under review.</p> <p>23/03/17: Ongoing.</p>	Open
17/01/17	To provide an update on the security assurances that NHS Digital would seek for applicants using contractors.	Garry Coleman	<p>24/01/17: It was anticipated this update would be provided to a meeting within the next few weeks.</p> <p>09/03/17: Ongoing. It was agreed that the IGARD chair would</p>	Open

			<p>contact Garry Coleman.</p> <p>16/03/17: An update had been provided by email; it was agreed this would be circulated to confirm whether this had addressed IGARD's query.</p> <p>23/03/17: It was confirmed one query had been addressed by email; confirmation was requested if any queries remained outstanding.</p>	
09/03/17	NHS Digital to ensure that for all future DSfC applications, data flow diagrams should be provided and where appropriate the applications should be split in order to aid transparency of the process.	Stuart Richardson	23/03/17: Ongoing.	Open
23/03/17	To provide additional information about the application checks made by the Pre-IGARD process before applications are submitted to an IGARD meeting.	Gaynor Dalton		Open
23/03/17	To provide a response to previously raised IGARD queries about indemnity.	IGARD Secretariat		Open

Appendix B: Out of committee report (as of 10/03/17)

These applications were previously recommended for approval with conditions by IGARD, and the conditions have subsequently been agreed as met out of committee.

The following applications had the non-privacy notice caveats signed off by DAAG or IGARD, and then the privacy notice caveats signed off by the Director for Data Dissemination:

- NIC-47169 NHS Lincolnshire West CCG (*considered at DAAG meeting 28/07/16*)
- NIC-49690 NHS Aylesbury CCG (*considered at DAAG meeting 28/09/16*)
- NIC-54756 NHS Isle of Wight CCG (*considered at DAAG meeting 13/09/16*)
- NIC-49745 NHS Wiltshire CCG (*considered at DAAG meeting 04/10/16*)
- NIC-43468 NHS Ashford CCG (*considered at DAAG meeting 19/07/16*)
- NIC-47170 NHS South West Lincolnshire CCG (*considered at DAAG meeting 28/07/16*)
- NIC-41097 NHS Birmingham South & Central CCG (*considered at DAAG meeting 28/06/16*)
- NIC-43435 NHS Central London (Westminster) CCG (*considered at DAAG meeting 19/07/16*)
- NIC-43531 NHS Hounslow CCG (*considered at DAAG meeting 19/07/16*)
- NIC-63161 NHS Rotherham CCG (*considered at DAAG meeting 20/12/16*)
- NIC-36851 NHS North Tyneside CCG (*considered at DAAG meeting 21/06/16*)
- NIC-36882 NHS South Tees CCG (*considered at DAAG meeting 21/06/16*)
- NIC-43496 NHS West Kent CCG (*considered at DAAG meeting 14/09/16*)
- NIC-43522 NHS West London CCG (*considered at DAAG meeting 19/07/16*)
- NIC-49718 NHS Windsor Ascot & Maidenhead CCG (*considered at DAAG meeting 14/09/16*)
- NIC-43492 NHS Hammersmith & Fulham CCG (*considered at DAAG meeting 19/07/16*)
- NIC-43481 NHS Ealing CCG (*considered at DAAG meeting 19/07/16*)
- NIC-49738 NHS Bedfordshire CCG (*considered at DAAG meeting 06/12/16*)
- NIC-55701 NHS Tower Hamlets CCG (*considered at DAAG meeting 22/11/16*)
- NIC-43549 NHS North East Hampshire & Farnham CCG (*considered at DAAG meeting 14/09/16*)

IAO and Director approvals

The following applications were not considered by DAAG or IGARD but have been progressed for IAO and Director extension/renewal only:

- NIC-365623-T3W4S University of Manchester