

Independent Group Advising on the Release of Data (IGARD)

Minutes of meeting held 28th November 2019

In attendance (IGARD Members): Maria Clark, Nicola Fear, Kirsty Irvine (Chair), Eve Sariyiannidou, Geoffrey Schrecker.

In attendance (NHS Digital): James Humphries-Hart, Karen Myers, Kimberley Watson, Vicki Williams.

Not in attendance (IGARD Members): Anomika Bedi, Sarah Baalham, Maurice Smith.

Observer: Catherine Day

1	<p>Declaration of interests:</p> <p>Geoffrey Schrecker noted a professional link with Group application for 7 CCG's (NIC-129507-J0H0D) but noted no specific connection with the application or staff involved and it was agreed that this was not a conflict of interest.</p> <p>Nicola Fear noted a professional link with the team at the Ministry of Defence (NIC-148468-KFJZ5), however, as this was part of the oversight process, it was agreed that Nicola would remain in the meeting for the discussion of the review process for that application.</p> <p>Review of previous minutes and actions:</p> <p>The minutes of the 21st November 2019 IGARD meeting were reviewed and subject to a number of minor amendments were agreed as an accurate record the meeting.</p> <p>Out of committee recommendations:</p> <p>An out of committee report was received (see Appendix B).</p>
2	Data applications
2.1	<p><u>Monitor: IGARD amendments Sept 2019; include NHSE as a data controller, PLICS timescales/sharing PLICS data with NHSE, add PROCODE field in HESMMES, Theatres Data set Mandatory request and CSDS disclosure rules (Presenter: Kimberley Watson) NIC-15814-C6W9R</u></p> <p>Application: This was an amendment application to 1) add NHS England as a joint Data Controller for all datasets disseminated to NHS Improvement under this Data Sharing Agreement (DSA); 2) include key updates for timescales relating to Patient Level Information Costings System (PLICs) data collections and a request to share this data with NHS England 3) request "PROCODE" field in the HESMMES dataset; and 4) add receipt of theatres data set discovery collection as per mandatory request and add disclosure control rules for Community Service Data Set (CSDS). The data will be used to support the delivery of their statutory function and support direct improvement and / or oversight of Trusts.</p> <p>The application was been previously considered on the 7th November 2019 when IGARD had deferred pending: to produce the appropriate official document that expressly sets out the mandatory request for the datasets that would flow to NHS England in order for NHS England to perform its statutory functions; to consider the reference to the private organisation "Circle" within the application and check it is still necessary and accurate; IGARD suggested that all acronyms upon first use in the application be defined and further explained, as may be necessary for a lay reader.</p> <p>Discussion: IGARD noted that some of the previous deferral points discussed on the 7th November 2019 had not been fully addressed; including the request made by IGARD for the appropriate official document(s) that expressly sets out the mandatory request(s) for all the requested datasets that would flow to NHS England in order for NHS England to perform its</p>

statutory functions, detailing any restrictions or limitations to the dissemination itself, or to the manner of the dissemination.

IGARD noted that it was not clear within the application what the correct legal basis under the Health and Social Care Act 2012 was for NHS Digital to disseminate each of the datasets under the mandatory request. IGARD suggested that further clarification was provided on the appropriate legal basis under s261 or s262 for the dissemination of the data collected under each mandatory request and its appropriateness in the context of s255, and any restrictions or limitations found in the mandatory requests themselves.

IGARD noted that they had previously queried the reference within section 5 (Purpose / Methods / Outputs) to the private organisation “Circle” and asked that further consideration was given to whether it was still necessary and accurate to refer specifically to this organisation.

IGARD offered NHS Digital additional support with the application out of committee and suggested that further guidance be sought from NHS Digital’s Data Protection Officer.

Outcome Summary: Recommendation to defer, pending:

1. To produce the appropriate official document(s) that expressly sets out the mandatory request(s) for all the requested datasets that would flow to NHS England in order for NHS England to perform its statutory functions.
2. To clarify the legal basis for NHS Digital to disseminate each of the datasets requested under the mandatory request(s) (and such clarification to address the specific points highlighted by IGARD in correspondence out of committee).
3. To consider the reference to the private organisation “Circle” within the application and check it is still necessary and accurate.

2.2 Group application for 7 CCG’s¹: DSfC - NEL STPs NHS Tower Hamlet - Comm (Presenter: James Humphries-Hart) NIC-129507-J0H0D

Application: This was a renewal and amendment group application for 7 CCG’s to receive pseudonymised Secondary Uses Service (SUS+), Local Provider Flows, Mental Health Minimum Data Set (MHMDS), Mental Health Learning Disability Data Set (MHLDDS), Mental Health Services Data Set (MHSDS), Maternity Services Data Set (MSDS), Improving Access to Psychological Therapy (IAPT), Child and Young People Health Service (CYPHS), Community Services Data Set (CSDS), Diagnostic Imaging Data Set (DIDS), National Cancer Waiting Times Monitoring Data Set (CWT), Civil Registries Data (CRD) (Births and Deaths), National Diabetes Audit (NDA), Patient Reported Outcome Measures (PROMs) and Hospital Episodes Statistics (HES) Datasets.

The amendment was to 1) include Queen Mary University of London as a Data Processor for 3 of the CCG’s listed (NHS Newham CCG, NHS City and Hackney CCG and NHS Tower Hamlets CCG), 2) To include new processing and storage locations for 3 of the CCG’s (NHS Barking and Dagenham CCG, NHS Havering CCG and NHS Redbridge CCG), and 3) To include a flow of national, pseudonymised record level HES data for STP transformational programmes evaluation and planning

The purpose of the application is to provide intelligence to support the commissioning of health services.

Discussion: IGARD had a lengthy discussion on the role of the Sustainability and Transformation Partnerships (STPs) as referenced within the application and queried what their role was, how the STP informed the named CCG’s commissioning and how it differed from the commissioning role carried out by the CCGs. IGARD asked that a clear narrative

¹ NIC-129507-J0H0D NHS Waltham Forest CCG, NHS City and Hackney CCG, NHS Redbridge CCG, NHS Newham CCG, NHS Barking and Dagenham CCG, NHS Havering CCG, NHS Tower Hamlets CCG

was provided in section 1 (Abstract) and section 5(a) (Objective for Processing) addressing these queries.

IGARD also noted that should the commissioning be directed by the STP that data controllership issues that arose from this were addressed with a clear narrative in section 5 (Purpose / Methods / Outputs), noting that the STP comprised of parties beyond the CCGs named in the application.

IGARD discussed the national HES data that had been requested and asked that a clear justification was provided clarifying why this had been requested, specifically in relation to the named CCG's core commissioning function. IGARD also asked that if the justification related to wider STP initiatives, rather than the core CCG commissioning function, that the associated data controllership issues raised by the involvement of the STP was addressed and clearly articulated in section 5. IGARD also suggested that a clear narrative be provided as to how the proposed national HES data requested would support the CCG's core commissioning function and asked for clarification.

IGARD noted the volume of HES data requested to support the CCG's to conduct wide-ranging national bench-marking, and asked if the local health and care priorities were identified and that national data was requested just to benchmark these priorities as referred to in NHS Digital's Data Minimisation Standard (Standard 3).

IGARD also queried why other national resources that were available to the CCG's were not satisfactory to establish national benchmarking, for example the Cancer Waiting Times data from NHS England and asked for written narrative in section 5 addressing this.

IGARD noted the statement in section 5(a) (Objective for Processing) *"The CCGs will work proactively and collaboratively with the other CCGs in the STP to redesign services across boundaries to integrate services. Collaborative sharing is required for CCGs to understand these requirements."* and asked for further clarity on this, and to explicitly state which actors are undertaking the work described.

IGARD queried if there were any other active Data Sharing Agreement's (DSA) for the commissioning for the CCG's, and were advised by NHS Digital that there were no live DSA's in relation to commissioning. IGARD asked that a clear statement was included in the application clarifying this point.

Outcome Summary: Recommendation to defer, pending:

1. To provide a clear narrative in section 1 and section 5(a) on the role of the STP, how the STP informs the named CCG's commissioning and how it differs from the commissioning role carried out by the CCGs.
2. If the commissioning is directed by the STP, to address the data controllership issues that arise as the STP comprises parties beyond the CCGs named in the application.
3. In reference to the national HES data requested:
 - i) To provide a clear justification for requesting the national HES data, specifically in relation to the named CCG's core commissioning function. If the justification relates to wider STP initiatives, to address the associated data controllership issues raised by the involvement of the STP.
 - ii) To confirm why other national resources available to the CCG's (for example CWT data from NHS England) are not satisfactory to establish national benchmarks.

	<ul style="list-style-type: none"> iii) To confirm if it is possible to identify local health and care priorities and request national data just to benchmark those priorities? Refer to Data Minimisation Standard. iv) To be clear on the circumstances of how the proposed national HES data requested supports the CCG's core commissioning function. <p>4. To provide further clarity on the "collaborative working" outlined in section 5(a) and explicitly detail which actors are undertaking the work described.</p> <p>5. To include a clear statement in the application clarifying that there are no other active DSA's for commissioning for the CCG's listed.</p>
<p>2.3</p>	<p><u>Group Application for 3 CCG's²: DSfC - Suffolk and North East Essex - ICS - Comm (Presenter: James Humphries-Hart) NIC-192767-R0S9V</u></p> <p>Application: This was an amendment group application for 3 CCG's to receive pseudonymised Secondary Uses Service (SUS+), Local Provider Flows, Mental Health Minimum Data Set (MHMDS), Mental Health Learning Disability Data Set (MHLDDS), Mental Health Services Data Set (MHSDS), Maternity Services Data Set (MSDS), Improving Access to Psychological Therapy (IAPT), Child and Young People Health Service (CYPHS), Community Services Data Set (CSDS), Diagnostic Imaging Data Set (DIDS), National Cancer Waiting Times Monitoring Data Set (CWT), Civil Registries Data (CRD) (Births and Deaths). The amendment was to also include linkage of pseudonymised commissioning data sets to GP and Social Care data; and to include Optum Health solutions as an additional Data Processor. The purpose of the application is to provide intelligence to support the commissioning of health services.</p> <p>NHS Digital noted an error within the application in relation to costings and that this would be amended to zero.</p> <p>Discussion: IGARD had a lengthy discussion on the role of the Integrated Care Systems (ICS) that was referred to in the application and were advised by NHS Digital that this information had been included by way of background and confirmed that the ICS would not have any involvement with data disseminated under this Data Sharing Agreement (DSA). IGARD noted this and asked that all references to the ICS were removed from the application and that it was amended throughout to ensure that it was specific to the CCG's and their joint data controllership.</p> <p>IGARD also asked that in-light of the discussion on the role of the ICS, that a special condition was included in section 6 (Special Conditions) stating that only the CCG's listed would have access to the data, and that no other party would carry out the role(s) of Data Controller or Data Processor other than those names in the DSA.</p> <p>Outcome Summary: recommendation to approve subject to the following condition:</p> <ul style="list-style-type: none"> 1. To remove reference to the ICS and amend the application throughout to ensure the application is specific to the CCG's and their joint data controllership. <p>The following amendments were requested:</p> <ul style="list-style-type: none"> 1. To insert a special condition in section 6 stating that only the CCG's listed will have access to the data and that no other party will carry out the role(s) of Data Controller or Data Processor other than those named in the agreement. <p>It was agreed the condition would be approved Out of Committee (OOC) by IGARD members.</p>

² NIC-192767-R0S9V NHS West Suffolk, NHS Ipswich and East Suffolk and NHS North East Essex CCGs

<p>2.4</p>	<p><u>Group application for 3 CCG's³: DSfC - NHS Bedfordshire CCG, NHS Luton CCG and NHS Milton Keynes CCG - Comm (Presenter: James Humphries-Hart - NIC-338789-M0T3Q</u></p> <p>Application: This was a new group application for 3 CCG's to receive pseudonymised Secondary Uses Service (SUS+), Local Provider Flows, Mental Health Minimum Data Set (MHMDS), Mental Health Learning Disability Data Set (MHLDDS), Mental Health Services Data Set (MHSDS), Maternity Services Data Set (MSDS), Improving Access to Psychological Therapy (IAPT), Child and Young People Health Service (CYPHS), Community Services Data Set (CSDS), Diagnostic Imaging Data Set (DIDS), National Cancer Waiting Times Monitoring Data Set (CWT), Patient Reported Outcome Measures (PROMs), National Diabetes Audit (NDA), Civil Registries Data (CRD) (Births and Deaths). The purpose of the application is to provide intelligence to support the commissioning of health services.</p> <p>Discussion: IGARD queried the data controllership arrangements for the 3 CCG's that would be receiving the data under this application and were advised by NHS Digital that as part of the data minimisation process, each CCG would receive their own data for each CCG's geographical area and would then share with the other CCG's that form part of the DSA. IGARD noted that each CCG Data Controller would be the Data Controller for the whole dataset across all the CCG's / geographical area.</p> <p>IGARD had a lengthy discussion on the role of the Sustainability and Transformation Partnerships (STPs) that was referred to in the application and were advised by NHS Digital that this information had been included by way of background and confirmed that the STP would not have any involvement with data disseminated under this Data Sharing Agreement (DSA). IGARD noted this and asked that all references to the STP's were removed from the application and that it was amended throughout to ensure that it was specific to the CCG's and their joint data controllership.</p> <p>IGARD also asked that in-light of the discussion on the role of the STP's, that a special condition was included in section 6 (Special Conditions) stating that only the CCG's listed would have access to the data, and that no other party would carry out the role(s) of Data Controller or Data Processor other than those names in the DSA.</p> <p>Outcome Summary: recommendation to approve subject to the following condition(s)</p> <ol style="list-style-type: none"> 1. To remove reference to the STP and amend the application throughout to ensure the application is specific to the CCG's and their joint data controllership. <p>The following amendments were requested:</p> <ol style="list-style-type: none"> 1. To insert a special condition in section 6 stating that only the CCG's listed will have access to the data and that no other party will carry out the role(s) of Data Controller or Data Processor other than those named in the agreement. <p>It was agreed the condition would be approved Out of Committee (OOC) by IGARD members.</p>
<p>3</p>	<p><u>Returning Applications</u></p> <p>IGARD noted that they do not scrutinise every application for data, however they are charged with providing oversight and assurance of certain data releases which have been reviewed and approved solely by NHS Digital.</p> <ul style="list-style-type: none"> • NIC-01207-V9G9P Compufile Systems Limited • NIC-147916-DPQ3Q The University of Manchester • NIC-148468-KFJZ5 Ministry of Defence (MoD) • NIC-368543-C3J4B CHKS Limited

³ NIC-338789-M0T3Q_NHS Bedfordshire CCG, NHS Luton CCG and NHS Milton Keynes CCG

	<p>IGARD welcomed the four applications as part of their oversight and assurance role and noted a number of comments to NHS Digital and suggested that further information and comments be provided in an IGARD Oversight and Assurance Report which would be published separately to the minutes of the meetings, for transparency of process, and on a quarterly basis.</p>
<p>4 4.1</p>	<p><u>AOB:</u></p> <p>Automated Decision Making</p> <p>NHS Digital advised IGARD that work was ongoing on Risk Stratification as a whole, including automated decision-making and advised that this would be presented to IGARD at a future meeting. IGARD welcomed the update and looked forward to receiving further information on this.</p> <p>There was no further business raised, the IGARD Chair thanked members and NHS Digital colleagues for their time and closed the application section of the meeting.</p>

Independent Group Advising on Releases of Data (IGARD): Out of committee report 22/11/19

These applications were previously recommended for approval with conditions by IGARD, and since the previous Out of Committee Report the conditions have been agreed as met out of committee.

NIC Reference	Applicant	IGARD meeting date	Recommendation conditions as set at IGARD meeting	IGARD minutes stated that conditions should be agreed by:	Conditions agreed as being met in the updated application by:	Notes of out of committee review (inc. any changes)
None						

In addition, a number of applications were processed by NHS Digital following the Precedents approval route. IGARD carries out oversight of such approvals and further details of this process can be found in the quarterly Oversight and Assurance Report.