

Department of Health
Organisational Change Directorate
Annex 3
Castle Buildings
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Belfast
BT4 3SQ

By email only: OrgChgDir@health-ni.gov.uk

17 September 2021

Dear Department of Health,

RE: Future Planning Model - Targeted Stakeholder Consultation

Thank you for inviting the Information Commissioner's Office (ICO) to respond to the above consultation.

As you will be aware, the Information Commissioner's role includes the regulation of the Data Protection Act 2018 (DPA18), the UK General Data Protection Regulation (UK GDPR) and the Freedom of Information Act 2000. Given our role as a regulator, it would not be appropriate for us to respond in detail to the merits of the Future Planning Model set out in Annex A.

However, we acknowledge the importance of an integrated health and social care provision in the community and the requirement to share personal data in order to deliver this. Ensuring personal data is held and shared appropriately is vital in upholding public trust and confidence. Consideration should be given to the completion of a [Data Protection Impact Assessment](#) (DPIA) in relation to the Future Planning Model to ensure that all relevant data protection issues have been given due consideration, any risks associated with same identified and sufficiently mitigated.

We have provided general comments on the consultation document and proposed Future Planning Model for your consideration below.

Data sharing

The consultation document references a number of different organisations involvement in the proposed integrated care system, including the Public Health Agency, Health & Social Care Trusts and local providers. When

sharing personal data, it is important organisations give careful consideration to the data protection implications of any sharing arrangement(s). Organisations should ensure any data shared is done so in a lawful and fair manner in accordance with UK data protection law. You may wish to consult our new Data Sharing Code of Practice which can be found [here](#) on our website when considering these matters.

Data sharing agreements

Organisations involved in data sharing should consider putting in place a data sharing agreement. Data sharing agreements should set out the purpose of the data sharing, cover what happens to the data at each stage, set standards and help all parties involved in the sharing to be clear about their roles and responsibilities. Having a data sharing agreement in place helps organisations demonstrate their compliance with accountability obligations under the UK GDPR.

Data sharing agreements should also address any practical problems that may arise when sharing personal data. This should ensure that all organisations involved clearly understand what personal data they can share. This should assist with the prevention of irrelevant or excessive information being disclosed. Such agreements will also assist with ensuring that organisations have common technical and organisational security arrangements in place and address any operational differences which may exist with respect to retention or deletion periods.

Security and data minimisation

Given the sensitive nature of the personal information likely to be collected within a health and social care setting, specific and detailed consideration should be given to ensuring appropriate security measures are implemented so that personal information is not compromised. The completion of a DPIA can assist with identifying any potential risks associated with proposed personal data processing. As part of this, the Department of Health (DOH) should consider areas such as cyber security, the risk of data breaches, the risk of human error, inappropriate access to sensitive personal data, staff training and data storage.

Population level data

Section 5 of the proposed Future Planning Model refers to "*the gathering, analysis, sharing and use of population level data along with known evidence-based interventions to inform decision making and evaluation*". Consideration will need to be given as to whether this population level data will be personal data, anonymised data or pseudonymised data. It is important to establish this from the outset as it will impact the legal requirements placed on such data. You can find more guidance on each of

these [here](#) on our website, along with our [Anonymisation code of practice](#) which, although written under the old Data Protection Act 1998, still contains useful guidance on the process of anonymisation which remains applicable under the current legislation.

Regional Group and Area Integrated Partnership Board

Sections 8, 9 and 10 of the Proposed Future Planning Model set out the proposals for the establishment of a Regional Group and an Area Integrated Partnership Board. Consideration should be given to the standing of these bodies from a data protection perspective and whether the intention is that they are to be a data controller in their own right, or whether they will fall under the controllership of the DOH. The DPIA should assist you in establishing this remit.

Data sharing in an emergency

If it can be reasonably foreseen that organisations may need to share data in emergency or critical situations this should be considered within a DPIA. UK data protection law does not prevent the sharing of personal data where it is appropriate to do so, and in an emergency organisations should share data as necessary and proportionate, taking subsequent steps to ensure any action taken is documented in order to comply with accountability obligations.

Article 36(4) requirements

Section 15.3 of the proposed Future Planning Model makes reference to work which will "*help to identify if there is any requirement to underpin the model with specific legislation*". Article 36(4) of the UK GDPR requires government departments and other public sector bodies to consult with the ICO on policy proposals for legislative or statutory measures relating to the processing of personal data. If a decision is made to proceed with specific legislation to underpin the Future Planning Model, DOH will need to consider whether such legislative proposals will initiate the requirement under Article 36(4) for the DOH to consult with our office on same. The DCMS guidance on the consultation process under Article 36(4) is available [here](#), alongside the Article 36(4) [Enquiry Form](#) which needs to be submitted to our office.

To conclude, while the ICO would not have a view on the suggested approach to implementation any process put in place should have systems within it to ensure compliance with data protection legislation and allow for individuals to exercise their rights. You can find further guidance on this within our [Guide to the UK GDPR](#).



Information Commissioner's Office

Upholding information rights

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Our NI regional office would welcome the opportunity to discuss this response with you further should you have any queries.

Yours sincerely,

A handwritten signature in grey ink that reads 'Caroline Mooney'.

Caroline Mooney
Regional Manager, ICO – Northern Ireland