

# Independent Group Advising on the Release of Data (IGARD)

## Minutes of meeting held 20 April 2017

**Members:** Sarah Baalham, Joanne Bailey, Chris Carrigan, Nicola Fear, Jon Fistein

**In attendance:** Diane Clark, Garry Coleman, Louise Dunn, Frances Hancox, Louise Hill, James Humphries-Hart, Steve Smith, Joanne Treddenick, Vicki Williams

**Apologies:** Anomika Bedi, Kirsty Irvine, Debby Lennard, Eve Sariyiannidou, James Wilson

1	<p><b>Declaration of interests</b></p> <p>No relevant interests were declared.</p> <p><b>Review of previous minutes and actions</b></p> <p>The minutes of the 13 April 2017 IGARD meeting were reviewed and agreed as an accurate record of the meeting.</p> <p>Action updates were provided (see Appendix A).</p> <p><b>Out of committee recommendations</b></p> <p>An out of committee report was received (see Appendix B).</p>
2  2.1	<p><b>Data applications</b></p> <p><u>Blackburn with Darwen Borough Council - Matching of the NHS Number for Adult Social Care Clients (Presenter: Steve Smith) NIC-97461-C0H4B</u></p> <p><b>Application:</b> 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 the application used the standard template for this type of application, and that the full range of services from the template application were included.</p> <p><b>Discussion:</b> There was a brief discussion about the MOSAIC application and how this related to the Spine Mini Services Provider. IGARD queried the role based access controls that would be in place to access data via this application, and it was confirmed that while NHS smart cards would not be used there would be a functional equivalent in place. IGARD noted the importance of role based access controls to ensure that only appropriate staff would have access to the relevant data.</p> <p>IGARD queried the review process for this organisation's privacy notice against the nine minimum criteria recently agreed within NHS Digital. It was agreed the application would need to be updated to reflect that an appropriate review had taken place and that the privacy notice met these criteria.</p> <p>It was noted that the application used quite technical language in places and IGARD noted the importance of using plain English where possible and reducing the use of jargon, particularly in sections of the application that would be made available to the general public via the data release register.</p> <p><b>Outcome:</b> Recommendation to approve.</p>

	<p>The application should be amended to confirm that Blackburn Council's privacy notice has been satisfactorily reviewed against the updated nine point minimum criteria.</p> <p>A query was raised about the process to review a large number of this type of Local Authority applications; it was noted that work was underway within NHS Digital to set out a proposal for how applications might be grouped together or otherwise handled more efficiently.</p> <p><b>2.2</b>      <u>Group application for 209 CCGs (Presenter: James Humphries-Hart)</u></p> <p><b>Application:</b> This was a group application to access linked urgent care (111) Emergency Local Provider Data and Secondary Uses Service (SUS) via the national urgent care dashboard solution hosted by North of England CSU. IGARD were informed that each CCG would only receive the data for its own CCG area, and that it was proposed their existing data sharing agreements would be updated to incorporate the use of this additional data. It was noted that of the 209 CCGs, 203 currently received pseudonymised 111 data via local provider flows.</p> <p><b>Discussion:</b> IGARD requested confirmation of which CCGs were included in this application, and it was confirmed that all CCGs currently in existence were included.</p> <p>It was noted that due to the large number of applicant organisations and the number of different data sharing agreements involved, in several places the application referred to details being 'as per DSA'. IGARD suggested that it would be helpful to have sight of an example completed DSA to be clear how these details would be incorporated.</p> <p>IGARD noted that the briefing paper provided as a supporting document referred to draft guidance 'attached', but that this guidance had not been provided with the meeting papers. It was agreed this would be circulated to members for information. There was a discussion about NHS Digital's intention to carry out an audit of the CSU host.</p> <p>There was a brief discussion of NHS Digital's fair processing information and IGARD requested an update on any work taking place to review this and ensure it accurately described the processing of various datasets.</p> <p>IGARD acknowledged the potential benefits of this work and considered it to be in the public interest. In that light it was suggested that the organisations involved, particularly NHS England, should consider ways to make information available to the general public about the outputs and benefits achieved through this use of data.</p> <p><b>Outcome:</b> Recommendation to approve.  IGARD should be provided with a copy of the draft guidance referred to in the briefing paper. IGARD advised that the organisations involved might wish to consider how information about the outputs and benefits of this work could be made available to the general public.</p> <p><b>Action:</b> IG Advisor to seek an update from IG Compliance regarding work to improve NHS Digital's fair processing information</p> <p><b>2.3</b>      <u>Doncaster CCG (Presenter: James Humphries-Hart) NIC-86861</u></p> <p><b>Application:</b> This consolidated application requested an amendment to add PI Health and Care Ltd as a data processor. The application also requested the continued processing of SUS data identifiable at the level of NHS number for invoice validation and risk stratification, as well as pseudonymised SUS, local provider flows, mental health (MHMDS, MHLDDS,</p>
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MHSDS), Improving Access to Psychological Therapies (IAPT), maternity (MSDS), Children and Young People's Health (CYPHs), and Diagnostic Imaging Dataset (DIDs) data for commissioning purposes. IGARD were informed that PI Health and Care Ltd would receive SUS data directly from the DSCRO and would also receive pseudonymised social care data from Doncaster Council, which would be linked and used to produce reports for the CCG.

IGARD were made aware that the application contained an erroneous reference to Greater Huddersfield CCG, which would be removed.

**Discussion:** A small number of other administrative errors in the application were noted; these included an inconsistency about whether this was a new application or a renewal and amendment, as well as a reference to October 2017 that should have stated 2016.

Some queries were raised about parts of the generic template wording and the use of occasionally vague wording such as lists 'including', as well as the way that information was presented split across the different sections of the application. It was suggested that IGARD might in the near future wish to review the template to ensure its continued suitability.

The data flow diagram was discussed and IGARD noted that the diagram seemed to indicate that data for invoice validation would travel through the CSU, whereas it was confirmed that in reality the data would be transferred directly from the DSCRO to the CCG. It was agreed the diagram should be corrected. There was a discussion about the roles of the different organisations involved in this application and in particular the use of social care data; IGARD requested further information about the data sharing arrangements between Doncaster Council and Doncaster CCG to support the use of this data.

Concerns were raised that the Doncaster CCG privacy notice did not currently seem to reflect the use of social care data, and IGARD requested specific assurance that NHS Digital were content that this still met the minimum nine criteria. IGARD queried the current process for privacy notice review given that training for staff completing the review had not yet been completed.

IGARD noted that DAAG had previously requested additional information for CCG renewal applications about what benefits had been achieved over the previous year of using data, but that there had been difficulties due to the number of organisations involved and the template approach typically taken to these applications. IGARD acknowledged the importance of noting the benefits achieved through the use of healthcare data and it was suggested that some case studies or examples should be included in the IGARD annual report.

**Outcome:** Recommendation to approve, subject to conditions:

- Confirmation that NHS Digital's IG ISA are content that the CCG privacy notice meets the nine minimum criteria, particularly in terms of where data is collected from.
- Confirmation of appropriate data sharing arrangements between the Local Authority and the CCG.

The application should be amended to correct several administrative errors, and the data flow diagram should be corrected to be clear about a data flow that does not go via the CCG. 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." In particular IGARD advised that Doncaster CCG should update their privacy notice to reflect the involvement of PI Health and Care Ltd.

IGARD advised that PI Health and Care Ltd should update their DPA registration to refer to processing data about patients.

2.4	<p>It was agreed these conditions would be reviewed out of committee by the IGARD Chair.</p> <p><b>Action:</b> IGARD Chair to contact key stakeholder organisations regarding the benefits of uses of data to feed into the IGARD annual report.</p> <p><u>Group application for 4 CCGs<sup>1</sup> (Presenter: James Humphries-Hart) GA01-AMD-YO</u></p> <p><b>Application:</b> This was a consolidated group application requesting an amendment to an existing agreement to extend the dataset periods, as well as to clarify the application wording around risk stratification. The application was also for the continued processing of SUS data identifiable at the level of NHS number for invoice validation and risk stratification, as well as pseudonymised SUS, local provider flows, mental health, IAPT, MSDS, CYPHs and DIDs data for commissioning purposes. A minor error in the application was noted.</p> <p><b>Discussion:</b> IGARD queried the reason for the change in dataset period, as the previously agreed application had requested historic data back to 2013 whereas the current application now requested data back to 2008. It was clarified that the previous application had been intended to include historic data back to 2008 but that this had been omitted due to an error. In addition it was confirmed that this dataset period was typical for this type of application. IGARD asked for the application wording to be amended to more clearly describe the reason for the change in requested dataset period.</p> <p>IGARD also queried the current process for privacy notice review given that training for staff completing the review had not yet been completed.</p> <p>There was a brief discussion of the risk stratification tool functionality whereby GPs could re-identify patients registered at their practice and use the data for direct care purposes.</p> <p>IGARD requested clarification of the role of Nottingham Health Informatics Service (NHIS) in risk stratification, as the data flow diagram showed data passing through this organisation but the application was unclear what processing would take place within NHIS. It was thought that NHIS would act only as a landing stage for the data before passing it directly on to the CCG, and IGARD requested confirmation of this within the application along with confirmation that NHIS staff would not access the data. In addition IGARD asked for the data flow diagram to be updated to explain the dotted arrow that passed through NHIS.</p> <p><b>Outcome:</b> Recommendation to approve, subject to:</p> <ul style="list-style-type: none"> <li>• Confirmation that where NHIS acts to land invoice validation data then NHIS staff will not access the data, with this to be clarified within the processing activities section.</li> </ul> <p>The application should be amended to clarify the wording around reason that historic data from 2008 was not included in the previous application. The data flow diagram should be updated to include an explanation of the dotted arrow.</p> <p>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."</p> <p>It was agreed these conditions would be reviewed out of committee by the IGARD Chair.</p>
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<sup>1</sup> NIC-86349-M3B9V NHS Nottingham City CCG; NIC-86244-P6Y1N NHS Nottingham North & East CCG; NIC-86409-C4S9S NHS Nottingham West CCG; NIC-86250-T2M6F NHS Rushcliffe CCG

**Application:** This was a consolidated group application requesting an amendment to an existing agreement to extend the dataset periods, as well as to clarify the application wording around risk stratification, and to add Optum Health Solutions (UK) Ltd as an additional data processor. The application was also for the continued processing of SUS data identifiable at the level of NHS number for invoice validation and risk stratification, as well as pseudonymised SUS, local provider flows, mental health, IAPT, MSDS, CYPHs and DIDs data for commissioning purposes. A minor error in the application was noted.

**Discussion:** IGARD noted that a data flow diagram had not been provided with this application and requested sight of this. It was confirmed that this data flow diagram contained the same dotted arrow of risk stratification data passing through NHIS as the previously discussed application (Group of 4 CCGs GA01-AMD-YO), and IGARD requested the same confirmation regarding the role of NHIS in landing this data. IGARD also asked for the application to be similarly amended to explain the reason for the change in requested dataset period.

IGARD noted that these applications contained a requirement for the applicant organisations to achieve a satisfactory reviewed version 14 IG Toolkit score; IGARD requested confirmation of the timescales for this requirement.

A query was raised about the involvement of two different data processors for the purpose of risk stratification, as it was unclear whether each organisation was providing different services or if there would be some duplication of processing. It was suggested that the use of two data processors might be due to a changeover between the two organisations, with the intention that one organisation would cease processing for this purpose after a certain period of time. IGARD asked for confirmation of the reason and agreed that if this was due to a planned changeover, the application should be updated to include the standard requirements around data destruction for the organisation that would cease processing.

IGARD queried the process for privacy notice review, as it was noted that although training was planned for the NHS Digital staff undertaking reviews this training had not yet taken place. It was agreed the IG Advisor to IGARD would seek assurances regarding the current process for privacy notice review against the agreed criteria.

**Outcome:** Recommendation to approve, subject to conditions:

- Confirmation that where NHIS acts to land invoice validation data then NHIS staff will not access the data, with this to be clarified within the processing activities section.
- Providing a clearer justification of the reasons to include an additional data processor using identifiable data for risk stratification. If this is due to a changeover of risk stratification providers, the application should be amended to include appropriate assurances about data destruction.
- Providing a copy of the data flow diagram.

The application should be amended to clarify the wording around reason that historic data from 2008 was not included in the previous application. The data flow diagram should be updated to include an explanation of the dotted arrow.

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."

<sup>2</sup> NIC-86260-S0V2F NHS Mansfield & Ashfield CCG; NIC-86246-M3T5X NHS Newark & Sherwood CCG

2.6	<p>It was agreed these conditions would be reviewed out of committee by the IGARD Chair.</p> <p><b>Action:</b> IG Advisor to provide assurances that appropriate processes are in place to review the CCG privacy notices against the nine point criteria.</p> <p><u>University of York - Evaluating the cost-effectiveness of the Best Practice Tariff for hip fracture (Presenter: Louise Dunn) NIC-50329-G1L1P</u></p> <p><b>Application:</b> This application requested Hospital Episode Statistics (HES) IDs only in a bridging file, to enable pseudonymised HES data already held to be linked with national hip fracture audit data provided by the Royal College of Physicians (RCP). The application had previously been discussed at the 13 April 2017 IGARD meeting, when IGARD had deferred making a recommendation due to a lack of clarity regarding the different data flows and legal bases involved. A data flow diagram had now been provided to add clarity, and a special condition had been added to the application as per the discussion at the previous meeting.</p> <p><b>Discussion:</b> IGARD agreed that the data flow diagram was very helpful in clarifying the data flows and legal bases, and expressed their thanks to NHS Digital staff for producing this.</p> <p>It was noted the application specified that only substantive employees of the University of York would have access to data, but IGARD suggested that this wording should also specify that the data would only be accessed for the purposes set out in this application.</p> <p>There was a discussion about the benefits of using data flow diagrams to clarify flows, but IGARD noted that diagrams would not be published and that the public data release register would only reflect the text included in section five of applications. IGARD requested an update on any possible future improvements to the NHS Digital data release register, and whether it would be feasible to consider publishing some data flow diagrams in future.</p> <p>The role of the Royal College of Physicians was discussed. It was noted this organisation would provide audit data to the University of York, but that they were not considered a data controller for the purposes of this application.</p> <p>IGARD queried a statement within the application that a supporting document (SD11) indicated that the applicant's section 251 support included but was not limited to HES data. It was noted that the supporting document specifically stated that support was only given for the named datasets (HES/ONS and SUS) and that access to any further datasets held by NHS Digital would need to be subject to a further amendment application. IGARD asked for the application wording to be updated to clarify this.</p> <p><b>Outcome:</b> Recommendation to approve. The application should be amended to include a statement in section 5B that staff can only access data for the purposes detailed in this application, and to amend a reference to what is covered by the amendment in SD11 to be clear that this only covers HES/ONS and SUS data.</p> <p><b>Action:</b> Louise Dunn to request an update from Garry Coleman about possible future improvements to the data release register, and whether this might include publishing data flow diagrams to add clarity.</p>
3	<p><b>Any other business</b></p> <p>No other business was raised.</p>

## 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> <p>20/04/17: Ongoing.</p>	Open
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</p>	Open

			<p>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>20/04/17: It was confirmed that the HQIP SLSP had been reviewed and approved. IGARD requested sight of this for information.</p>	
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 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> <p>20/04/17: Ongoing.</p>	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	<p>06/04/17: Ongoing. It was anticipated a response would be provided at the following IGARD meeting.</p> <p>13/04/17: A verbal update was given on the Pre-IGARD process and it was agreed that it would be helpful on both sides to develop a Pre-IGARD checklist to define what checks would be carried out as standard for each application before reaching IGARD.</p> <p>20/04/17: Ongoing.</p>	Open
23/03/17	To provide a response to previously raised IGARD queries about indemnity.	IGARD Secretariat	<p>06/04/17: An update had been provided and the action remained open.</p> <p>13/04/17: This was ongoing within NHS Digital.</p> <p>20/04/17: Ongoing.</p>	Open
30/03/17	To contact the NHS Digital Caldicott Guardian regarding how NHS Digital handles applications from organisations whose IG Toolkit has been reviewed	Chris Carrigan	<p>06/04/17: This had been raised but a response had not yet been received.</p> <p>20/04/17: Ongoing.</p>	Open



	as satisfactory with an improvement plan.			
13/04/17	IGARD Secretariat to provide IGARD with a copy of the IG ISA work on legal basis for dissemination under the Health and Social Care Act 2012.	IGARD Secretariat	20/04/17: This had been completed and the action was closed. It was suggested that if IGARD members wished to see more detail about legal basis within applications, they should contact the Secretariat with their comments.	Closed
20/04/17	IG Advisor to seek an update from IG Compliance regarding work to improve NHS Digital's fair processing information	IG Advisor		Open
20/04/17	IGARD Chair to contact key stakeholder organisations regarding the benefits of uses of data to feed into the IGARD annual report.	IGARD Chair		Open
20/04/17	IG Advisor to provide assurances that appropriate processes are in place to review the CCG privacy notices against the nine point criteria.	IG Advisor		Open
20/04/17	Louise Dunn to request an update from Garry Coleman about possible future improvements to the data release register, and whether this might include publishing data flow diagrams to add clarity.	Louise Dunn		Open

## **Appendix B: Out of committee report (as of 13/04/17)**

These applications were previously recommended for approval with conditions by DAAG or 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-43473-S7S5C NHS South Kent Coast CCG (considered at 19/07/16 DAAG)
- NIC-43418-W0V0N NHS Greenwich CCG (considered at 19/07/16 DAAG)
- NIC-49731-X9N2K NHS Wokingham CCG (considered at 13/09/16 DAAG)
- NIC-47139-R5G3C NHS Southport and Formby CCG (considered at 28/07/16 DAAG)
- NIC-49714-T1W5W NHS South Reading CCG (considered at 13/09/16 DAAG)
- NIC-49697-J0V7M NHS Newbury and District CCG (considered at 13/09/16 DAAG)
- NIC-47137-R5V9D NHS Lincolnshire East CCG (considered at 28/07/16 DAAG)
- NIC-47086-Y2R7W NHS Erewash CCG (considered at 28/07/16 DAAG)
- NIC-43471-Y7V5L NHS Swale CCG (considered at 20/12/16 DAAG)
- NIC-43551-Y0W5M NHS Medway CCG (considered at 20/12/16 DAAG)

### **IAO and Director approvals**

The following application was not considered by DAAG or IGARD but has been progressed for IAO and Director extension/renewal only:

- NIC-07233 Neil Wilson Associated LLP