



Information Commissioner's Office
Promoting public access to official information
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The Information Commissioner's view of NHS Electronic Care Records

Introduction

The Information Commissioner has received a number of enquiries from people who have seen articles in the media relating to the introduction of electronic care records across England. Many of these individuals have expressed concern at the plans and are worried that their health records will be available to everyone across the NHS.

In addition many of those who have raised concerns with the Commissioner have also asked what the Commissioner's view of the electronic records programme is and whether or not he has been consulted by the Department of Health.

This note will provide people with answers to the above questions and also information about the changes to the way health records are maintained and the way these will be introduced. The information in the note relating to the implementation and operation of the new systems is based on details provided to the Commissioner by NHS Connecting for Health, the Department of Health agency responsible for the electronic health records programme.

Background

The NHS has a duty to ensure the personal information it keeps is held securely and handled in accordance with both the Common law duty of confidence and the Data Protection Act 1998. The Commissioner remains committed to ensuring the NHS takes its responsibilities seriously and that patients are provided with all of the information and choices they need to have to be able to make informed decisions about their health records. However he also believes that where new technology and ways of working can be used to improve patient care the NHS should be able to make use of these so long as they do so in a way which complies with the Act. NHS Connecting for Health has talked to the Commissioner about the changes and he is content with their general approach, as outlined below.

The Summary Care Record

The Commissioner understands from NHS Connecting for Health that no health records are currently being uploaded to the new England wide NHS database. This will not begin to happen until spring 2007. Initially a small number of Primary Care Trusts will be selected as early adopter sites and they will begin to upload information from the health records held by GPs in

these areas. The Commissioner understands that the early adopters will be subject to evaluation, including by independent researchers. Later in the year additional areas will begin to implement the new systems, informed by learning from the early adopters. The initial upload will be restricted to information relating to current medication, known allergies and adverse reactions. This information will form the **Summary Care Record** and no other medical information will be uploaded on to it prior to a discussion between you and your GP. The Summary Care Record will only ever be a summary of the important aspects of your medical record rather than the full detail.

Public information

NHS Connecting for Health has confirmed that people living in areas introducing Summary Care Records will be contacted before any of their medical records are uploaded on to the NHS Care Record Service. They will be given information about their options to limit the future scope of the information on the Summary Care Record or the option not to have one at all and they will also be given the opportunity to make arrangements to view their information before it is uploaded. They will have a specified period before their information is uploaded to consider their options.

The initial upload will take place without explicit consent on the specified date unless you choose to utilise one of the options mentioned above. Explicit consent is only one of the conditions for processing sensitive personal data referred to in schedule three of the Data Protection Act 1998 and NHS Connecting for Health are confident they are able to meet the requirements of one of the other conditions.

Once the basic health information referred to above is uploaded on to the NHS Summary Care Record:

- you will be able to choose to remove some or even all of the information initially uploaded
- you will be able to keep the uploaded information but make the Summary Care Record invisible

Any further information will not be added to your Summary Care Record unless you have agreed to it in discussion with your GP. The Commissioner understands that these types of discussions will take place at the next consultation you have with your GP following the initial upload.

Later on, you will have another choice. Instead of the whole record, you will be able to choose to prevent specific information from being visible without your consent by utilising what will be called a 'sealed envelope'

Access

The NHS will be introducing a range of new access controls as the new systems develop. Access to the Summary Care Record by NHS staff will be provided by an NHS Smart Card and PIN. In addition the type of access a member of the NHS is able to get will be determined by their role, for example

a doctor involved in your treatment will have a need to see information about your health where as a receptionist's job may not require them to see medical information and therefore the access they would be given would only enable them to see your contact and appointment details.

NHS staff will also have to have a legitimate relationship with you to access your data. A doctor who is not directly involved in your care is unlikely to be able to access your Summary Care Record because they will not have a legitimate reason to do so. Doctors in an A & E department are some of the few NHS staff able to create an immediate legitimate relationship with you and thereby gain access to your Summary Care Record. This is because care in A&E departments is normally unplanned and so there is no formal referral.

All access to the Summary Care Record will be logged and unusual access will be investigated by a member of staff in every NHS Trust - often known as the Caldicott or Information Guardian. You will also be able to ask for a copy of the audit log relating to your record if you have concerns.

The Local Detailed Care Record

This is an electronic version of your notes accessible, with the controls described above, to people in organisations that normally work together in your local area. This means your GP's surgery along with the other care providers you might be referred to, such as your local hospital, will be the only organisations able to access it. Local NHS organisations will slowly link to access records over the next several years.

Information Sharing

NHS Connecting for Health has stated that the health information uploaded on to the NHS Care Records Service will not be accessible to any organisations beyond the NHS without your explicit consent except where this is allowed or required by law. Any requests for information contained within an individual's NHS Care Records will be dealt with in the same way as requests are handled today.

Conclusion

The Commissioner has been consulted by NHS Connecting for Health about their plans for electronic care records and can see the potential benefits these may bring. However the NHS must continue to comply with the Data Protection Act 1998 and this is vital to guarantee that public confidence is maintained. The Commissioner will be monitoring the implementation and operation of the new NHS Care Records Service to ensure patients are provided with adequate information and choices and that their health data is maintained in a safe and secure way. As part of this he will continue to engage with NHS Connecting for Health on a number of issues, in particular those relating to the accuracy of the information to be uploaded, the way people are informed about the changes and the systems in place to allow people to access their own information.

If you would like to find out some more information on the changes outlined above you can visit this website set up by NHS Connecting for Health.
www.nhscarerecords.nhs.uk