

Data Management and to Accredited Safe Havens (ASH) – SIRO Report

1. Background

From 01 April 2013, the Health and Social Care Act 2012 (H&SCA 2012) came into effect, this changed the way commissioning organisations such as CCGs and NHS England could receive, share and use data. Under H&SCA 2012, NHS England and CCGs were established with different functions and powers to those of PCTs. PCTs had a statutory/legal basis for accessing Patient Identifiable /Patient Confidential Data (PID/PCD), NHS England and CCGs have no such statutory/legal basis. The default position for new Commissioning Organisations to process PID/PCD, is to rely on patient consent or use anonymisation / pseudonymisation data.

In April 2013 NHS England sought legislative support under section 251 regulations to allow commissioners to access weakly pseudonymised PID/PCD for certain purposes. This would allow CCGs to receive and process data with either the NHS Number or Postcode. Over the course of the last 12 months 5 different section 251 temporary agreements have been approved by the Confidentiality Advisory Group (CAG). These are:

1. ECC 2-05(b)/2007 (amendment to existing application) – The existing approval that allowed the Health and Social Care Information Centre (HSCIC) to release Secondary Use Service (SUS) data in an identifiable format to PCTs in 2012/13, to be extended to allow HSCIC to release the same data for the same purposes to CSUs and CCGs for a 3 month period from 01/04/2013 to close down PCTs and SHAs.
2. CAG 2-03(a)/2013 – To enable the flow of commissioning information from HSCIC to support defined commissioning purposes to Accredited Safe Havens (ASH) for a period of 6 months to 31/10/2013
3. CAG 2-03(a)/2013 update report/duration extension – extended the previous 251 agreement for a period of 12 months to 31/10/2014 with the same conditions of approval and recommendation that national solutions are put in place to remove the need for commissioning organisations to receive SUS data in an identifiable format.

All 3 CAG approvals above did not cover:

- Data to flow from providers directly to Accredited Safe Havens
- The flow of data in support of Risk Stratification
- The flow of data for invoice validation / invoice checking

4. CAG 7-04(a)/2013 – conditional approval was granted February 2014. Only named and existing risk stratification system suppliers and those with existing contracts as at 23/01/2014 are eligible, support is provided for a 6 month period up to and including 23/07/2014, CCGs are required to collaborate with NHS England to implement a standard for risk stratification that minimises the use of PCD.

5. CAG 7-07(a)(b)(c)/2013 – CCGs and CSUs have received approval for a period of 1 year to 21/11/2014. The approval requires CSUs acting on behalf of CCGs to establish a Controlled Environment for Finance (CEff) and to complete and return an assurance statement.

2. Accredited Safe Havens (ASH)

In June 2013 NHS England published “Accredited Safe Havens – Accreditation Process – Stage 1”. This document set out the steps for CSUs and CCGs to become accredited, these were:

1. *Register an intention with HSCIC by 31/07/2013 that the organisation wants to apply for ASH status* – Both the CSU and the CCG registered their intention to apply.
2. *Have a current HSCIC IG Toolkit self-assessment in place which demonstrates a minimum level 2 compliance against all requirements for the organisation* – during June 2013 the CSU IG Team reviewed the CCG IG Toolkit scores these were an overall 38% non-satisfactory with 15 of the 28 criteria not at level 2. The timescales for achieving level 2 were extremely tight and the CSU IG Team would like to thank those CCG staff who worked with us to complete all the necessary work within the required deadlines. The CSU submitted the CCG’s toolkit on 31st October 2013 at 65%, with one requirement not meeting the minimum level 2 around Pseudonymisation. HSCIC and NHS England accepted the submission.
3. *Sign a Data Sharing Contract with the HSCIC which introduces the additional binding requirements regarding the processing, analysis and data sharing that the ASH is allowed to undertake.* – this data sharing contract and a data sharing agreement were completed and signed by the CCG at the beginning of January 2014 and sent off to HSCIC.

Please note: Unfortunately there has been a delay within HSCIC approving the data sharing agreement despite them being checked and approved by HSCIC before signing and sending, the forms were finally signed on 26th February.

4. *Alignment to an approved Data Service for Commissioners Regional Office (DSCRO)* – The CSU on behalf of the CCGs aligned itself to North & East London DSCRO.

Although the CCG has achieved stage 1 ASH status this does not mean that all staff within the CCG are allowed access to PID/PCD. The CSU has been working with key staff within the CCG to ensure that the minimum number of staff who requires access to PID/PCD sit within the CCGs controlled Safe Haven environment. New Policies and processes are in place to ensure that the PID/PCD received into the CSU and CCG are only used for purposes agreed within the s251 approval.

At the end of January 2013, SUS data for 2013/14 became available to the CCG Safe Haven staff. At the time of writing this report work is underway with providers to supply locally

agreed data flows (as per contracts in place with the providers) to the DSCRO so that this can then be sent onto the CSU and CCG.

The amount of work involved in all of the above should not be underestimated and the CSU IG and BI teams would like to thank the CCG for their patience, understanding and support during what has been an extremely frustrating time for all involved.

3. Risk Stratification

Conditional approval was granted in February 2014 for the use of commissioning data sets and GP data for risk stratification purposes to data processors working on behalf of GPs. Only named and existing risk stratification system suppliers and those with existing contracts as at 23/01/2014 are eligible, support is provided for a 6 month period up to and including 23/07/2014, CCGs are required to collaborate with NHS England to implement a standard for risk stratification that minimises the use of PCD.

The application was on behalf of GPs, as the relevant data controllers. It will enable GPs, supported by CCGs, to target specific patient groups and enable clinicians with the duty of care for the patient to offer appropriate interventions.

NHS England has given an undertaking to the Secretary of State for Health to seek assurance from eligible organisations and to provide a register of approved organisations for the receipt and processing of the patient data for risk stratification.

If the CCG, on behalf of its GP member practices, wishes to use a risk stratification system, for which it has a contract in place, they will need to work with the CSU IG team to complete the assurance statement and submit this to NHS England.

4. Controlled Environment for Finance (CEfF)

In the absence of a legal basis to use PCD, patient-level invoice validation was suspended while NHS England developed new data processing systems for commissioners. Due to the complexities involved, this work did not progress as quickly as had been expected. As it was not feasible to prolong the delay, NHS England applied for section 251 to establish a temporary lawful basis for 'necessary' PCD to be used to validate invoices without the need to obtain explicit consent from the individual patient.

On implementing NHS England's guidance around invoice validation for the short term, CCGs, CSUs and providers should be working on their medium term plans to minimise their use of PCD for invoice validation and to find a secure legal basis where it is necessary to use such data. .

The main purpose of the section 251 approval is to maintain essential business continuity while these complex cultural and operational changes are undertaken.

- The first approval adds invoice validation to the existing section 251 (CAG 2-03(a)/2013), which allows DSCROs to flow weakly pseudonymised data into a CCG's controlled environment for finance (CEfF) for this purpose (CAG 7-07(a)/2013) – this can be used for all contracted activity invoice validation
- The second and third approvals allow a 'PCD backing-data set' to be used for invoice validation on Non Contracted Activity (NCA) within a CCG's or CSU's CEfF. This approval will enable business continuity while we build capacity and capability into the system (CAG 7-07(b)/2013)

The CEfF will have limited access to key systems used to support invoice validation. In order to apply for CEfF status, an organisation must be accredited with Stage 1 ASH.

A CCG or CSU must establish a controlled environment for finance (CEfF) before it can receive backing data, in order to do this a CSU/CCG must complete a CEfF Assurance Statement, put in place various technical and organisation measures on receiving and storing backing data, including the implementation of policies and procedures as to how the data will be received, stored and used and provide additional IG training to all staff within the CEfF.

A secure contact point must be established for providers to submit backing data and copy invoices to the CEfF of the CCG or CSU. This contact point must be communicated to providers and to NHS SBS, and registered with NHS England.

The CSU has set up the secure environment for storage of backing data sets and the secure email accounts for the information to be received into, has developed the additional policies and procedures required and is in the process of working with SBS and the CSU finance team to notify providers of its processes.

5. The Future

All of the s251 approvals that have come into effect during 2013/14 are for a fixed period of time, therefore during the course of 2014/15 the CSU and CCG will need to work with NHS England and HSCIC to ensure that:

1. national solutions are put in place to remove the need for commissioning organisations to receive SUS data in an identifiable format
2. medium term plans are put in place to minimise the use of PCD for invoice validation and to find a secure legal basis where it is necessary to use such data.
3. a standard for risk stratification that minimises the use of PCD is implemented

6. Summary and points to note

The last 12 months has seen a big change in how Commissioning Organisations receive and use PID/PCD, this change was not expected or anticipated prior to the abolition of PCTs. The CCG and the CSU have worked extremely hard to ensure that they stay within the legal restrictions imposed by the Health and Social Care Act 2012.

The CCG submitted its IG Toolkit Assessment in October 2013, 6 months earlier than it would usually have to do so. Level 2 attainments were recorded against all but one criteria and the only reason for this not reaching level 2 was the uncertainty around receipt and dissemination of weakly pseudonymised data.

- The CCG and the CSU have achieved Interim stage 1 ASH status.
- The CSU on behalf of the CCG has established a CEfF
- The CCG has not had any IG related SIs during 2013/14.

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