

## **Enhanced Data Sharing Model - Sharing Policy**

### **SystemOne practices and setting consent**

#### **Why share information?**

The 'Information Governance Review; to share or not to share', published in 2013, encourages appropriate sharing of patient information for direct care and the review specifically tried to redress the imbalance between confidentiality and sharing for direct care in the patients best interests. Information sharing might take place between care professionals themselves, or between care professionals and patients. An example of sharing between professionals is the patient's GP record being shared with community nursing teams or hospital consultants.

Consultations who have up to date GP patient information will result in better decisions and thus better patient care. The National Information Board, established by the Department of Health, states that "*better use of data and technology has the power to improve health, transforming the quality and reducing the cost of health and care services.*"

There is a clear mandate from policy makers to share information appropriately and securely in order to promote the best possible outcomes for patients.

Nottinghamshire's plans for transforming primary care require improved integration between health and care providers. This can only be achieved by sharing information where relevant which is in the patient's best interests.

#### **Clinical systems and patient consent**

##### *Explicit consent*

Explicit consent to share information is the gold standard that practices should aspire to. This is where a patient expressly states they are willing for their information to be made available to be shared with other healthcare professionals.

##### *Implied consent*

It is not always possible to record explicit consent. In such cases, care providers may take a professional decision to imply consent on behalf of a patient to ensure the highest quality of care.

*Where records are set to implied consent, they would only be accessed by other care providers who obtain explicit consent from the patient to view the record at the point of direct care.*

##### *SystemOne and EMIS sharing models*

Once the relevant Information Sharing Agreement (ISA) is in place, EMIS patients are set to implied consent to share. This means sharing patient information out automatically to those detailed in the ISA, unless the patient has previously explicitly dissented.

SystemOne uses an enhanced data sharing model (EDSM). Consent is designed to be captured from the patient at the point of consultation or registration. For GP practices this will set the preference for that patient's record sharing. This is explicit consent.

SystemOne practices can also automatically set consent for their patients. This is implied consent.

➤ **XXXX Enter CCG Name \*\* policy for setting consent**

As a result of the work done by the Records Information Group (RIG) and support from the County IGM&T committee XXXX CCG was asked to recommend a policy of implied consent across all patients where no form of consent had previously been recorded. This supports the Caldicott principle (Caldicott 2 and the 7<sup>th</sup> Principle) that clinicians should share their records to better support patient care. CIG also agreed that best practice would be to seek explicit consent for sharing patient records from patients as time goes by. In summary:

- **SystemOne practices set implied consent to make all patients records available for sharing.**
- **EMIS practices are not required to take any action as these patients are already set to implied consent.**
- **All practices seek explicit consent to share records as time goes by**

*If a patient has already explicitly consented or dissented from sharing their record, this instruction shall remain and will not be overridden. Although it is good practice to make contact with these patients to ensure they have not changed their mind or feel that they wish to revisit this decision.*

The possibilities and processes for sharing information are constantly changing as technology develops. The policy described here may be subject to change as functionality evolves.

### **What does this policy mean for patients?**

This proposed policy will benefit patients in a number of ways:

- The policy will enable the delivery of improved and joined-up care
- The policy creates the potential to share patient records – but patients are still in control when their information is accessed
- The policy will ensure that SystemOne patients have the same quality of care as EMIS Web patients

### **What patient involvement has there been?**

This policy has been discussed and agreed with patient representatives at RIG, CIG, Local CCG Groups, and the MIG (Medical Interoperability Gateway) project boards.

Furthermore, patients will be informed about their records being set to implied consent both before and after this happens. Patients have the opportunity to register their dissent by contacting their practice.

## Appendix A: Frequently Asked Questions

### *Who is sharing the records?*

Practices will need to run CCG written Organisational Group reports to identify any patients that have already explicitly consented or dissented from having their record shared. Those records remaining will then be set to implied consent to make available – in bulk – by a member of staff at the GP Practice.

### *Who accesses the shared record?*

Care providers outlined in the ISA have the potential to receive this shared information, for example local hospitals and community nursing teams.

**Patients will still be asked for their explicit consent before their information is accessed by a care professional from one of these organisations.**

### *What is being shared?*

The full patient record will be shared unless items have explicitly been marked by data controllers as private.

Close working partners (such as local heart failure nurses, COPD nurses) may have access to the full record including free text.

For more distant healthcare organisations (e.g. 111, EMAS, NEMS) using MIG, currently only Read coded information for diagnoses, procedures, investigations, encounters, medication, allergies is being shared. Free text may become available in the near future but how much of the free text will be available is unknown and the ramifications of this will be explored with practices prior to sharing free text with other organisations.

Information marked as private can never be seen by other care providers outside the practice unless the patient gives explicit permission or there is a requirement by law.

### *Why is it important to set consent preferences?*

If consent or dissent is not set either way, it will not be possible for information to be shared that might benefit the patient.

### *How will this setting of consent be communicated to patients?*

There are a number of ways patients will be kept informed about this policy for setting consent:

- A policy of fair processing notice will be available on the practice website, and intention to enact the policy will be communicated in practice waiting rooms
- Practices will be given information to add to their website
- Information must be added to patients' next prescription counterfoils
- Footers must be added to existing letters going to relevant patients
- Information will be added to the CCG website

### *Can patients opt out?*

Yes. If a patient is informed that their record has been shared under implicit consent and they do not wish for this to be the case, the patient can make their practice aware. Practices must offer these patients an opportunity to discuss the consent setting with a GP who can explain why it is in their best interests to share information with other care providers. If the patient still does not wish for their record to be shared, the practice must set dissent.

### *By sharing under implied consent, am I breaching the Data Protection Act?*

The DPA is there to protect patients and not to get in the way of sharing information for legitimate reasons. At the same time the 7<sup>th</sup> Caldecott principle is explicit about the duty of health carers to share medical records for direct patient care. There are no cases of the ICO pursuing cases against organisations who share medical records for direct patient care. Patients can still object to their information being shared in which case their records will not be viewable. Patients will need to be informed and we suggest a poster in the waiting area, a patient leaflet to be available and a notice on practice web sites.