

NHS number: IG Requirements

1. Purpose

The NHS Number is the national, unique identifier that makes it possible to share patient and service user information across the NHS and social care safely, efficiently and accurately. This short guide has been prepared to help Information Governance managers in making local decisions on sharing the NHS number. In particular it clarifies the rules on the use of the NHS Number by Local Authorities and adult social care providers.

2. Introduction

Every individual registered with the NHS in England and Wales has a unique NHS Number. In 2012 an NHS Standard¹ was developed for its use. In summary, the standard strongly recommends that care organisations use the NHS number for all patients and clients, to display the NHS number on electronic screens and to include it in paper and electronic communications. It is an administrative number and has nothing to do with entitlement to care.

In 2014 NHS England launched a programme to support system-wide adoption of the NHS Number to enable delivery of integrated care and integrated digital care record systems (Appendix A). This means that the NHS Number is being implemented in new care contexts and as a result there are uncertainties and concerns as to how it should be handled; this guidance addresses a number of questions raised by Social Care staff and will be supplemented by published responses to frequently asked questions (FAQs) as further questions are presented to the IGA.

In addition, in April 2015, Parliament passed the Health and Social Care (Safety and Quality) Act 2015 which places a legal obligation on organisations that commission or provide health care or adult social care to include a consistent identifier when processing patient and service user information for purposes that might facilitate the provision of health services and adult social care² to individuals. Regulations will specify that the consistent identifier must be the NHS Number. The 2015 Act also places a legal obligation on these organisations to share information, including the NHS Number, for these purposes wherever practicable.³

3. Exclusions

Local Authorities are not able to use the NHS Number as the unique identifier for all their personal records, but there is no restriction on Local Authorities⁴ and those organisations working in the care contexts identified in the following section being able to hold and use the NHS number for care purposes providing that Data Protection requirements are met. Whilst there is no legal

¹ Published May 2012, Implementation complete date as April 2015 <http://www.isb.nhs.uk/library/standard/191>

² As long as this is consistent with Common Law and the Data Protection Act 1998. Organisations need to explain the use of the NHS number in communication and provide the capacity for objection to such use.

³ Health and Social Care (Safety and Quality) Act 2015 251A 6 (d) - practicable in this context means where “reasonably able”

⁴ Local Authorities are bodies created by statute and can only do what the relevant statute permits. However, they generally rely upon section 1 of the Localism Act 2011 as the basis for processing the NHS Number. Non statutory bodies such as hospices are not restricted by statute. Both Local Authorities and hospices must comply with the Data Protection Act and confidentiality law.

restriction on wider use of the NHS Number, Government policy requires that the NHS number must not be used outside of the care context nor as a more general identifier e.g. for Local Authority internal purposes such as housing or education for clients unless there are relevant health or care considerations.

Responsibility for complying with these constraints is with local organisations that use the NHS Number. The expectation is that local decisions are based on client and patient safety considerations and do not lead to excessive holding of the NHS number. The ICO and other compliance agencies may hold Local Authorities to account if there is excessive processing of the NHS number.

4. In what care contexts can an NHS number be used?

The NHS number should be used in health and social care organisations and environments as long as the purpose is to communicate with those who are involved in providing care. In this context, commissioners are now expected to understand how their providers are using the NHS Number as the primary identifier for their clinical correspondence.

Examples of appropriate care contexts outside of the NHS where the use of the NHS Number is supported by Government policy include, but are not limited to:

- Adult's and Children's Social Care - NHS number can be added to all active records. This is legally required for adult social care records and strongly recommended for children's records.
- Pre-School and School services to support children with health conditions (e.g. Special Educational Needs and Disability - SEND)
- Housing services working with social care providers to support client who are receiving care
- Public Health teams and other parts of Local Authorities where there is a need to communicate with health and care bodies concerning the provision of direct care
- Residential care and nursing homes
- Hospices

5. Meeting Common Law and Data Protection Requirements

Common Law imposes a Duty of Confidentiality on staff who handle patient and service user information. The general position is that if information is given in circumstances where it is expected that a duty of confidence applies, that information cannot normally be disclosed without the information provider's consent. For direct care it is generally accepted that consent can be implied though a principle of 'no surprises' still applies⁵. The IGA has prepared a separate guide to help understand the limits of "implied consent".

⁵ Implied consent is only valid where it is reasonable to believe that the individual concerned understands that information about them may be shared and they haven't objected.

In addition to Common Law, the Data Protection Act 1998 imposes a number of obligations on organisations that process personal data, including an NHS Number. For processing to be lawful, conditions set out in certain schedules within the Act must be met. All processing of personal data must satisfy at least one condition in schedule 2 whilst processing of sensitive personal data must also satisfy a condition in schedule 3. Consent is an option in both of these schedules but other options exist and consent is not required if a different condition can be satisfied, e.g.:

Schedule 2:

- The processing is necessary for the exercise of functions of a public nature exercised in the public interest by any person.

Schedule 3:

- The processing is necessary for medical purposes and is undertaken by—
 - (a) a health professional, or
 - (b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.

“Medical purposes” includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.

The Information Commissioner has confirmed that the definition of medical purposes is broad enough to cover care in its wider sense, including social care (see Appendix B). All organisations that provide care must, of course, comply with the Data Protection Act 1998 including the provision of Fair Processing Notices.⁶

⁶ for detailed recommendations see NHS Information Governance Toolkit V 1.0 3/9/2015

Appendix A

NHS Number Programme Brief Sept 2014, NHS England

“As the NHS Number links systems and organisations, the benefits are expected to cut across many areas. Some examples are outlined below. But it is universally recognised that the use of the NHS Number as the primary identifier, does benefit both the patient and the organisations providing care.

- *Having a unique identifier across all care organisations reduces identification errors that can occur when a patient has multiple local identification numbers, (e.g. different hospital numbers).*
- *Prevents misidentification where care crosses organisations.*
- *Using a single identifier will enable linking of all care records across multiple organisations’ systems and records.*
- *Protecting patient identity. The biggest risk to patient confidentiality is when the information being exchanged between health and care professionals contains patient identifiable information such as; name, address, date of birth, etc. The NHS Number does not include any personal patient identifiable information.*
- *Safeguarding the security and confidentiality of the patients’ data, as only the NHS Number can be used to link records instead of flowing other identifiable data.*
- *Enabling patients to use new services such as Choose and Book/Electronic Referral Service and the Electronic Prescription Service.*
- *Ease of merging patient records where systems have to be migrated and merged as the NHS Number is used as the key to match and merge records.*

What are the consequences of wrong identification of an individual’s care records?

- *Diagnoses and test results attributed to wrong patient*
- *Delays to treatment until errors are spotted and resolved*
- *Direct harm to patients if errors are not spotted and resolved*
- *Additional discomfort, anxiety and stress for patients*
- *Additional anxiety, stress and time pressures for staff”*

Appendix B

When can Local Authorities rely upon the Data Protection Act Schedule 3 condition that relates to Medical Purposes?

The following answer has been discussed with the Information Commissioner and it has been confirmed that it is technically accurate.

‘The DPA defines medical purposes as - the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services. The NHS Act 2006 defines medical purposes as - (a) preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of health and social care services, and (b) informing individuals about their physical or mental health or condition, the diagnosis of their condition or their care and treatment.

In light of the integrated care agenda it will become increasingly difficult to draw the line between health and social care and it would be unrealistic and unhelpful for the ICO to adopt a very hard line upon the interpretation of Schedule 3 paragraph 8 to exclude social care.

Therefore, we are of the opinion that the definition in the DPA should not be seen as a complete definition or definitive list of medical purposes and our view at the ICO should be consistent with the definition provided within the NHS Act, which includes social care services.

Where processing is solely for social care or other Local Authority purposes it is unlikely that Schedule 3(8) would apply as the definition relates to medical purposes. However in the context of the integrated care agenda, it is increasingly likely that this will include a combination of both social care and medical purposes. Therefore, processing in such contexts will be permitted under Schedule 3(8) so long as the social care being provided has a health element, focus or outcome (whether that be public or individual).’