

Community Health & Social Care Directorate
Primary Care Division



Addresses

For Action

Chief Executives NHS Boards
Chief Officers for Health and Social Care Partnerships
Caldicott Guardians
eHealth leads
Information Governance Leads
GP Practices

For information

Scottish General Practitioners Committee
Primary Care Leads NHS Boards

Policy Enquiries to:

Joseph McKeown
Primary Medical Services
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Edinburgh
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Tel: 0131-244 4928

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27 November 2019

Dear colleague

**JOINT CONTROLLER AND INFORMATION SHARING AGREEMENT FOR
HEALTH BOARDS AND GP CONTRACTORS**

1. The document accompanying this circular is a template Joint Controller and Information Sharing Agreement ("ISA") for use by GP contractors and contracting Health Boards to support the safe and appropriate sharing of patient information. It has been developed and agreed by the Scottish Government, BMA and representatives of Health Boards with technical input from Scottish Clinical Information Management in Practice, and NHS National Services Scotland.
2. The most comprehensive record of a person's health is kept within the GP record. Safe and appropriate information sharing across healthcare settings is essential for good care. Good information governance and the regulatory framework which underpins it can be used to promote safer and more effective care through appropriate information sharing across healthcare settings.
3. To support this, the BMA and Scottish Government agreed that the 2018 GP Contract would include better recognition that GP contractors and their contracting Health Boards are the joint controllers of the personal data held within GP patient records. The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018 and the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018 came into force

in 2018 to implement the new contract and require the Health Board and the GP contractor to include within their contract a term that requires them to act jointly as data controllers in relation to the processing of patient records.

4. This work was supported by an Information Sharing Short Life Working Group created in 2017 to clarify the information governance roles, responsibilities and liabilities between Health Boards and GP contractors in relation to the information in GP patient records. The Group concluded that there was a need for Health Boards and GP contractors to enter into ISAs with each other, and that it would be most appropriate for a national standard template ISA to be co-developed by Health Boards and adjusted to meet the needs of local areas where necessary.

Users of the Information Sharing Agreement

5. The ISA is for use by contracting Health Boards and their GP contractors. It will also assist IT and information governance staff in Health Boards. The document will also be of use to patients seeking further details about how information is shared between their GP practice and Health Board.

Matters covered by the Information Sharing Agreement

6. The ISA is designed to assist Health Boards and GP contractors to determine in a transparent manner their respective responsibilities for complying with data protection legislation.
7. The ISA sets out the parties' respective responsibilities as joint controllers of the personal data contained within the patient records held by the GP Contractor.
8. The ISA also sets out the rules to be applied by the Health Board and the GP contractor when sharing personal data with each other, including with staff employed, contracted or engaged by either party, to enable the delivery of NHS services to the GP contractor's patients.
9. Information relating to the provision by the GP contractor of non-NHS services ('private work') are outside the scope of the ISA. GP contractors are expected to meet their requirements under Data Protection legislation for non-NHS services.
10. The ISA is designed to be a comprehensive source of support and it refers to a wide range of the most-common considerations for information sharing. However it cannot cover every possible situation that may arise. Where situations arise that are not covered in the ISA both parties should seek further appropriate advice.

Actions

11. Health Boards are requested to ensure that their information governance leads and primary medical services contractors are aware of this document.
12. Health Boards should seek to agree a joint controller and information sharing agreement with their primary medical services contractors using the attached

template ISA.

Enquiries

13. In the instance of any enquiries on this circular please contact Joseph McKeown.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Grisewood'. The signature is written in a cursive style with a large initial 'A' and a long, sweeping underline.

Aidan Grisewood, Deputy Director, Primary Care Division
Community Health and Social Care Division