

DAC Beachcroft are asked by NHS Frimley ICB, acting on behalf of the subscribing members of the Regional Health and Social Care Information Sharing Agreement (“**the Members**”), to supplement their previous advice by advising on the consolidation of several DataMarts used by the Members to store and process information (the “**Information**”). The Information is in part comprised of personal and special category data.

This document outlines the proposed solution which DACB were asked to advise upon, and provides a summary of their opinion. The advice focusses on the legitimacy of the consolidation of the DataMarts and not on the underlying lawfulness of the various processing activities which DACB understands are unchanged.

This document has been reviewed and approved by DACB, and the sections in italics summarise their opinion.

The background

The Members’ strategy has been to provide data analytics capabilities for the Information covering planning and commissioning purposes (anonymous data), population health purposes (pseudonymous data) and direct care purposes (fully identifiable data) by means of three physically separated DataMarts.

The combined repository

To improve the timeliness of data availability and also to reduce the number of copies of data processed (and thereby the cost of processing) the Members are moving the data analytics processing to a single physical repository to hold and process the Information. The combined repository provides the analytics functionality by means of three virtual DataMarts that together implement the same record-level security arrangements and the same role-based access control arrangements as are applied to the physical DataMarts. For example:

1. Information for data subjects who have availed themselves of the National Data Opt-out is not available to users of the anonymised virtual DataMart;
2. Identifiers (and other data that could be used to re-identify a data subject) are suppressed in the anonymised and pseudonymised virtual DataMarts;
3. By default the combined repository displays data in an anonymised manner; and
4. Fully identifiable data is only available to a user where the user’s role-based access control profile allows access to the identifiable virtual DataMart and the user has asserted that they have a legitimate basis for processing the data and the user has explicitly selected access to the identifiable data.

DACB has advised that consolidating the separate physical DataMarts into a single repository accessed via separate virtual DataMarts will be lawful to the extent that Frimley ICB and its local partner organisations are able to continue to comply with their data protection obligations.

They do not consider that the use of a consolidated repository alters or undermines the purposes and lawful bases for the processing, provided that the relevant dataset(s) can be reliably applied to the relevant purpose for processing.

They are also satisfied that the functionality of the Repository and the technical and organisational measures as described to us are fit for purpose in terms of legal compliance, including data protection legislation.

Finally, they have further advised that these points ultimately turn on the extent to which the Members are able to reliably maintain segregated access to the different categories of Information (anonymous, pseudonymous and fully identifiable) once consolidated, and the extent to which the technical and organisational measures in place in this regard are fit for purpose.

27 September 2023