

# The National Data Opt-Out



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# Course Objectives

- To Understand What the National Data Opt Out Is
- To know what your obligations under the National Data Opt-Out are
- To help you learn how to prepare for the National Data Opt-Out
- Let you know what resources are available to you



# What is the National Data Opt-Out?

The National Data Opt-Out was introduced on the 25<sup>th</sup> May 2018.

It enables patients to opt out of their data being used for research or planning purposes in line with recommendations of the National Data Guardian.

By April 2020 all health and social care organisations are required to be compliant with the National Data Opt-Out.

# What are the Different Opt-Outs?

## **Type 1**

prevents information being shared outside of the GP practice other than for the purpose of direct care.

## **Type 2**

prevents information being shared outside of NHS Digital for purposes beyond the individual's direct care. This has been replaced by the National Data Opt-Out

## **National Data Opt-Out**

A new consent/opt-out model to allow people to opt-out of their personal confidential data being used for purposes beyond their direct care.

# Section 251 of the NHS Act?

There are times when obtaining consent for sharing data is not practicable. There are processes that allow lawful sharing of patient confidential data without consent.

This is using Section 251 (regulations 2&5) support which is granted by the Confidentiality Advisory Group.

In general, if the legal basis for a disclosure from a GP practice is S251 then the national data opt-out will apply.

# When Does the National Data Opt Out Apply?

Sharing for the purposes of:

- **Section 251 (Regulations 2&5)**

This usual covers research and planning purposes.

- **Risk Stratification**

When relying on s251 for Planning only. Risk Strat for case finding is not applicable to the opt-out.

- **Invoice Validation**

This only applies if it was invoicing contracted services with data that isn't anonymised.

## When the National Data Opt Out Does not Apply?

Sharing for the purposes of:

- **Individual Care**

The opt-out does apply when data is used for Direct/ individual care.

- **Consent**

Consent overrides the Opt-out. Even if the opt-out is already in place

- **Invoice Validation**

Invoice validation for non-contacted activities or where anonymised data does not apply to the Opt-Out.

- **Public interest**

Data which used in Public interest which includes information required for Control of communicable diseases, for Law and by court order.

- **Risk Stratification**

Risk Strat for the purpose of case finding does not apply to the opt-out.

# Research and Planning in general practice

Patient data held by practices could be used in supporting research and for commissioning and health and social care planning and provision.

If practices participate in such data use for research or planning they must be aware of the legal basis for the use of this information.





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## Implementation of the National Data Opt Out?

The National Data Opt-Out will be applied by NHS Digital after a patient Opts Out either through the NHS digital website, phone or through the post.

More information on how the Opt-out is applied can be found here:

<https://www.nhs.uk/your-nhs-data-matters/manage-your-choice/>

# Implementation of the National Data Opt Out?

The practice must be aware of all situations in which information is leaving the practice to be used for purposes other than individual care.

The practice needs to utilise its data flow mapping exercise/spreadsheet to determine data flowing in/out of the practice and see if a particular flow needs national data opt out applying.

The practice should also contact their IT support to find out what changes have been made to SystemOne whether the changes will be implemented automatically.

# Supporting Patients

Practices should make patients aware of the national data opt out.

- You can do this by referring them to:

<https://www.nhs.uk/your-nhs-data-matters/>

- You can also download leaflets and posters and handouts here:

<https://digital.nhs.uk/services/national-data-opt-out/supporting-patients-information-and-resources#recommended-text-for-privacy-notice>

- And order hand-outs (available in Braille and large print) here:

<https://www.healthpublications.gov.uk/Home.html>

# Supporting Patients

Practices should check and review existing posters, leaflets patient forms and other documentation.

- Any information about Better Care leaflets or Care data are no longer relevant
- Any patient forms that include reference to Type 1 or 2 opt outs need to be reviewed
- Practice Privacy Notice needs to be updated to reflect National Data Opt Outs

# Supporting Patients

## Update your Privacy Notice

Your privacy notice needs to reflect the National Data Opt-Out.

NHS Digital have produced a statement on the National Data Opt-Out, that can be personalised and added to your fair processing notice.

<https://digital.nhs.uk/services/national-data-opt-out/supporting-patients-information-and-resources#recommended-text-for-privacy-notices>

*(Click on the link at the bottom of the page which opens a word document)*

# Supporting Patients

Development a National Data Opt Out Policy.

You can develop a National Data Opt-Out policy by using the resources provided on the NHS Digital website and applying it your practice.

The National Policy can be found here:

<https://digital.nhs.uk/services/national-data-opt-out/operational-policy-guidance-document/policy-considerations-for-specific-organisations-or-purposes>

# Final Thoughts

- Patients can only opt-out through NHS Digital
- The Practice needs to review its leaflets, posters and Policies to reflect the National Data Opt-Out and to inform patients of their right to opt-out.
- Update your fair Processing notice
- Contact your IT provider to make sure that SystemOne has been updated and whether the practice needs to do anything more.



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# Questions?

If you have any further questions and would prefer to email us please send to:

[bedsccg.iganddpo@nhs.net](mailto:bedsccg.iganddpo@nhs.net)

