Dear xxxx

As you will know, the 2023/24 GP contract which has been imposed upon the profession requires that practices provide automatic prospective access to GP-held patient records by 31 October 2023. Having now carried out a DPIA and shared this with the ICO, as a practice we do not feel that we can move ahead with automatic prospective access by the 31 October due to several risks that cannot be sufficiently mitigated without changing the approach we take to providing access. We have outlined these in our DPIA (attached).

In order to uphold our professional obligations and duties as a data controller, we will be proceeding on an ‘opt-in’ basis, actively engaging our patients to secure their informed consent to receive access to prospective records. We have taken the decision to adopt this approach to ensure access is provided safely, lawfully and with minimal risk. We have also attached a roadmap detailing how we intend to undertake this and a timeline for implementation of this model.

We also wanted to seek clarity on a number of aspects of the programme which remain unclear and could have a significant impact on how the programme is implemented:

1. [The regulations](https://www.legislation.gov.uk/uksi/2015/1862/regulation/71ZA) do not stipulate that patients under 16 years of age should be excluded from automatic prospective access, yet NHS England have not commissioned systems that provide access to this cohort. Will we be in breach of contract if access is not provided to all those under 16 years of age?
2. How do you suggest we move forward with patients who have ‘104’ (blocking access) codes applied for issues such as safeguarding concerns as the regulations do not provide for any exception for patients having access to their records except when a patient declines that access. Where automatic access has been provided for other patients, would an involuntary exception (until such time as a more considered discussion between the patient and GP is able to take place) for these patients constitute a breach of contract?
3. The regulations no longer require that redaction software be fit for purpose prior to providing record access and NHSE have stated that ‘full redaction’ of a document is acceptable where in actual fact only a part may need redaction to remove third party or harmful content. Will we be considered in breach of the regulations if we redact a full document on the patient record when the regulations state we need to provide patients with access to their documents?

We are keen to provide our patients with access to their records and are working towards achieving this.

I hope we can rely on your collaboration and support in providing access to all patients who want it in a safe and measured way over the coming months.

Yours,

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