

Focus on data sharing and GP data controllership

NNR

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Summary

GP contract holders determine the purposes for processing their patients' personal data and the means of processing the data. Under data protection law GPs are the 'data controller' which means they are effectively the legal guardian of all patient data in the GP medical record. (See <https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/controllers-and-processors/controllers-and-processors/what-are-controllers-and-processors/>)

Patient data can be accessed by the patient (the 'data subject'), or other health and social care providers involved in a patient's direct care. Patient data held within GP IT systems has the software supplier themselves acting as the 'data processor', a position that makes the system supplier accountable to act on the instructions of the data controller, the GP contract holder(s).

It is the trust enshrined between GPs and their registered patients which underpins the confidentiality of each patient's GP record. Recent times have seen Government repeatedly seek to impose measures that would potentially damage this relationship – be that the adoption of GP Data for Planning and Research (GDPDR) that seeks the lifting of GP data wholesale, to be shared at the discretion of the Department of Health and Social Care for reasons beyond direct care, or efforts by Government to bypass GPs and instruct software suppliers to flow patient data directly onto the NHS App platform, despite any potential risks such action may pose.

Patients have the utmost trust in their GP and believe anything said in the confines of the consulting room will remain confidential and only be used to enhance the care they receive or for bona fide clinical research. Any undermining of this trust, with data being used for other reasons, has the potential to seriously affect the patient/doctor relationship.

The future of the GP Record

Despite repeated attempts to undermine GPs' control of the data of patients under their registered care, there is no current way to force a GP to relinquish data controllership. Government would need to change the law to enable this to happen. Worryingly, there have been signals from NHS England that the data controllership issue is likely to be revisited in the coming months. Evidence has also recently come to light of a mechanism to use the GP Connect Application Programming Interface (API) to transfer patient data wholesale out of the general practice record¹ for as yet undefined purposes. GP Connect is an NHS IT service which allows GPs as data controllers to share a view of the electronic GP patient record with authorised and audited healthcare staff (e.g. those working in out of hours services or

¹ GPs should note the potential for abuse with API software such as GP Connect. The audit requirements of the contract should be fully implemented to be patient-visible within the NHS App (for those patients with prospective access turned on, subject to other risk indicators). See:

<https://www.theguardian.com/society/2023/may/14/nhs-england-data-privacy-confidentiality-records-addenbrookes-hospital>

emergency departments, and, more recently, those working in pharmacies). Using NHS smartcard technology, clinical systems allow role-based access controls (RBACs) for the purposes of direct care, to share and view clinical information and other data from the GP record between IT systems quickly and efficiently in real time, so clinicians and other authorised staff can view relevant coded histories, free text within consultations, medications, allergies and appointment information. **GPC England wholeheartedly and unequivocally supports the use of appropriate data sharing, including the use of GP Connect, for direct care purposes.**

Within England, an ICS may operate a local data platform which is able to receive a feed from the GP record, along with other data from other providers, in order to create a shared care record (which may be used for direct care and secondary purposes). GP Connect isn't currently used as the tool to extract the data from the GP record but pilot work appears to have begun. The local data platforms could become part of the Federated Data Platform, though there is currently no national requirement for this to happen and all decisions will be made locally.

GP Connect Update Record

The BMA's GPC England team also wish to draw to your attention to a new feature of GP Connect (<https://digital.nhs.uk/services/gp-connect/gp-connect-in-your-organisation/gp-connect-update-record>) that allows a coded record to be sent to the GP via a MESH transfer for automatic or manual ingestion. Whilst undoubtedly an improvement on the archiving of 200dpi bitmapped images containing clinical information, new issues are coming to light with the direction of travel of NHS England and the responsibilities that lie with the GPs as data controllers to deal with the potential influx of data for which they must take legal responsibility. Current contractual frameworks take no account of the cost of dealing with information received in this new way. The clinical systems do not make it easy to see which coded treatments may have been started by which external organisation, and which individual in particular, which is an important issue when considering prescribed treatments that at a first glance may look indistinguishable from those started by members of the practice team.

Adding data into the GP Clinical Record

GP Connect Update Record functionality allows any permitted third-party provider to not only view the GP clinical record, **but also add coded and free text data directly into it**. Coded data can include observations, blood pressures, coded diagnoses, and medicines. Such a function could potentially further enable workload and subtle responsibility transfer from an external provider directly to the GP in the future. One possible example would be that of an approved private psychiatry provider diagnosing ADHD in a patient, possibly having only been reviewed remotely, adding a coded diagnosis of ADHD to the patient record, and initiating medication, which will appear on the usual medication screens, with the expectation that the GP will then manage, monitor and continue to prescribe. Such a process may not give thought to the workload or capacity impact upon the GP or practice, not to mention the transfer of clinical

responsibility which might seem superficially to be so much easier if the GP just has to sign repeat prescriptions that the third party has remotely added to the record.

The National Data Sharing Arrangement (<https://digital.nhs.uk/services/gp-connect/national-data-sharing-arrangement-for-gp-connect>) allows any party the ability to withdraw consent for use of GP Connect in its entirety. Given GP Connect's ongoing development, new functionalities, as and when they are incorporated into the APIs, must have the approval of data controllers before they begin operation. This means GPs as data controllers can stop GP Connect Update Record from adding data to the patient record at any point for any reason². **There is nothing presently within the GMS contract which mandates the acceptance of GP Connect Update Record functionality. Practices struggling with workload and capacity are advised to consider switching off the Update Record functionality to support the BMA's safe working guidance, given the additional workload involved, not to mention the current level of code maturity.**

However, if practices are content with the direction of travel – which seems in line with NHS England's "Modern General Practice" model that can be described as GPs operating as the "risk sink" of the health service – then they need take no action. NHS England may then lock in your settings by removing the option to turn off GP Connect Update Record at some future date. EMIS and TPP have already been instructed by NHS England to do this at the start of July 2024.

Pausing GP Connect Update Record

If practices feel they wish to pause the new functionality, until such time as the clinical systems make it abundantly clear from where the coded entries have originated, and there is a suitable contractual framework in place to recognise the workload involved and data controller responsibilities, they have TWO actions they need to take now:

- 1) Take the necessary technical steps, explained below, to ensure your clinical system is configured in line with your choice. Your practice manager, in agreement with the GP partners, could most likely action this now.
- 2) Write formally to the data processor, your GP clinical system supplier (EMIS for EMIS Web or TPP for SystemOne) and advise that:

"As the data controller we wish to confirm our decision not to accept GP Connect Update Record data via the GP Connect APIs at this time. Any incoming requests to use the

² NHSE has made a request of TPP and EMIS to remove the 'off switch' in July 2024. For any practice that has opted out of GP Connect Update Record the proposed new behaviour in this circumstance would be to forcibly turn on the Update Record functionality but present each coded entry for manual acceptance/rejection. At the time of writing, TPP can be set to automatically file incoming Update Record entries straight into the record and simply send a notification that this has happened.

Update Record functionality should be refused thus triggering the fallback mechanism where clinical information is sent via an alternative route. Additionally, we do not agree to any change in data processing to turn on “GP Connect Update Record” (or any similar functionality, for example interoperability APIs that would allow coded and/or free text data to flow from other data controllers’ systems to ours), without our express direction.”

Practices should be familiar with this approach, which is similar to advice you will have received from us during the NHS rollout of accelerated access to GP-held records.

Contact details for the suppliers are:

EMIS Web – EMIS Support mysupport@emishealth.com and include ODS code, EMIS CDB number, and practice name and address

TPP SystemOne – same contact details provided during the “Accelerated access” data controller issues:

SystemOneSetup@tpp-uk.com

enquiries@tpp-uk.com

dpo@tpp-uk.com

EMIS

To amend the GP Connect Update Record functionality, in Organisation Configuration, select Edit Organisation, then scroll down to the option Accept GP Connect Update Record via MESH and select 'No'. Click OK to save. You will be prompted to restart EMIS Web to complete the activation. Selecting 'No' means no incoming data from GP Connect Update Record will flow and fallback mechanisms will therefore be triggered in the third-party organisation's software that had attempted to make the transfer.

The screenshot below shows you what to look for.

The screenshot displays the 'Organisation details' configuration window. On the left, a sidebar lists various configuration categories: Organisation details, Location Details, Email Configuration, SMS Configuration, FitNote Configuration, CDA Configuration, SCR Configuration, Service Details, and GP Connect Configuration. The main area shows a list of settings with radio buttons for 'No' and 'Yes'. The setting 'Accept GP Connect Update Record via MESH?' is highlighted with a red box, and its 'No' option is selected. Other settings include 'Separate community problems?' (Yes), 'Practice contract' (General Medical Services), 'Restrict users to patients on their service?' (No), 'Shared practice' (No), 'Dispensing organisation?' (No), 'Registration organisation' (own), 'Allow Mobile access?' (No), 'Display EMIS codes in the code picker?' (Yes), 'Default to the SNOMED CT preferred term in the code picker' (Yes), 'Display middle names (Patient Find, Banner)?' (No), 'Allow Alliance Surgical private referrals?' (No), 'Allow users to edit their profile information?' (No), 'Document Management functionality' (Full), and 'Auto-file flu vaccination from FHIR message?' (Yes). The 'OK' button at the bottom right is also highlighted with a red box.

TPP

In Organisation Preferences the screen below explains how you can click different options to provide different access to your system. Selecting 'Off' (followed by pressing 'OK') means no incoming data from GP Connect Update Record will flow and fallback mechanisms will therefore be triggered in the third-party organisation's software that had attempted to make the transfer.

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