

Dear colleagues,

GPCE (GPs Committee England) continues to support the principle of online records access for patients – **provided it is safe for patients, and safe for GPs and their teams**. We remain concerned about certain aspects of the programme and [have outlined these previously >](#)

Following the Government's decision to impose the GP contract in England this year, all practices are contractually obliged to provide patients with online prospective access to their full record. This will prospectively include the coded record; records of consultations; test results; all documents and associated free text, for all patients. **Practices' contracts require them to abide by this, by 31 October 2023.**

GP contractors are data controllers of the GP-held medical record:

- GPs' duties under the DPA 2018 (Data Protection Act 2018) and UK GDPR are paramount and must be observed by GPs instituting any new form of data processing.
- GPs should not breach their duties as data controllers in order to comply with a contractual obligation to provide access. It cannot have been NHS England/the secretary of state's intention to require GPs to act in breach of their data protection duties.
- These new contractual requirements require changes to the way that GP contractors as data controllers of the GP-held medical record process their patients' personal data and, as such, a Data Protection Impact Assessment is required by law.

The Information Commissioner's Office defines a DPIA (Data Protection Impact Assessment) as a process designed to help systematically analyse, identify and minimise the data protection risks of a project or plan. It is a key part of a GP contractor's accountability obligations under the UK GDPR. Conducting a DPIA does not have to be complex or time-consuming in every case, but there must be a level of rigour in proportion to the nature of the processing and the risks identified. There is no definitive DPIA template that you must follow.

Action you must take

The BMA has completed a general DPIA on behalf of the profession reflecting general risks which GPCE has identified. **You will now need to complete your own DPIA as a practice taking into account your practice's particular factual circumstances.** You can use the suggested BMA template which is based on the ICO's, or you may wish to develop your own

bespoke template and process to suit your own particular needs. In addition to the sample DPIA, the BMA has prepared guidance, outlining actions that practices may need to take depending on where they are in the process.

The BMA DPIA has identified a number of risks which may be mitigated by operating an opt-in model, which is to say providing access only to patients who request access, as opposed to providing access to all patients who have not opted out. Practices who conduct their own DPIA and reach the same conclusion **may want to operate an opt-in model**. This can be done until **31 October** which is the date by which GPs' contracts require access to be given to **all patients who have not opted out**. This could be via batch-coding with the '104' code and then asking all patients if they wish to opt-in to access. The BMA has produced separate guidance on how to operate an opt-in model for those practices that decide this is the best way to mitigate the risks they identify in their own DPIA.

Your guidance

We have created an FAQ to help answer any questions you may have, including on producing a DPIA and specific guidance for TPP SystmOne practice and EMIS practices, and template materials.

[Access the FAQ](#)

We have been actively engaging with colleagues at NHS England around this issue for many months, and we shall continue to do so. Likewise we are aware of the volume of information which has already been produced to support the implementation of this programme. However, we appreciate how busy practices are – especially at the present time in the middle of the accelerated seasonal vaccination programme, with over 7.5 million patients waiting for specialist treatment leading to increased demands on practices' limited time.

We have a duty to respond to the many GPs who have contacted us with overarching concerns, and requested guidance. Please refer to the FAQs which we have produced, and continue to advise us of what you need to best support you with this process. Our contact email for queries is info.gpc@bma.org.uk.



Katie Bramall-Stainer
GPs committee England chair



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