

Confidentiality Advisory Group

Minutes of the meeting of the Confidentiality Advisory Group held on *31 August 2023* via video conference.

Present:

Name	Capacity
Dr Tony Calland MBE	CAG Chair
Dr Martin Andrew	CAG Expert Member
Dr Joanne Bailey	CAG Expert Member
Dr Patrick Coyle	CAG Vice Chair
Dr Harvey Marcovitch	CAG Expert Member
Mr Andrew Melville	CAG Lay Member
Mrs Sarah Palmer-Edwards	CAG Expert Member
Professor Sara Randall	CAG Lay Member
Mr Dan Roulstone	CAG Lay Member
Mr Umar Sabat	CAG Expert Member
Ms Clare Sanderson	CAG Alternate Vice Chair

Also in attendance:

Name	Position (or reason for attending)
Dr Paul Mills	HRA Confidentiality Advice Service Manager
Ms Caroline Watchurst	HRA Confidentiality Advisor
Mr Dayheem Sedighi	HRA Approvals Administrator

1. APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

There were no apologies for absence.

1.1	Conflict:	CAG Member Mr Umar Sabat has stated he has the following conflicts of interest: 23/CAG/0125 (6d), 23/CAG/0126 (6b), 23/CAG/0108 (4a), 23/CAG/0123 (4b), 23/CAG/0130 (2d), 23/CAG/0120 (2c), as he is the DPO for all of the GP practices in these areas and has influenced these applications. Therefore, he did not participate in any discussions related to these applications.
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2. SUMMARY OF APPLICATIONS

This CAG meeting was convened to consider applications from Integrated Care Boards (ICBs) who wish to continue to undertake risk stratification for case finding. These applications will supersede the current risk stratification application managed by NHS England (CAG 7-04(a)/2013), which will expire on 30 September 2023. Any ICB that has not submitted through this route will no longer have a legal basis to undertake risk stratification for case finding, through this methodology, after this date. However, it is noted that other ICBs may be taking different approaches, and some of these may request Regulation 5 support via CAG separately.

The applications discussed below each sets out the non-research purpose of undertaking risk stratification case finding by Integrated Care Boards (ICBs). Risk stratification is a tool to identify patients that are at high risk of health deterioration and may require use of multiple services. This identification allows GPs to prioritise the management of their care to reduce and prevent poor outcomes. Risk stratification necessitates the use of large-scale national datasets combined with GP data.

Support is requested for the flow of confidential patient information from GP suppliers to the risk stratification supplier, and to link this information with national datasets through NHS number. Support is not being requested for the flow of national datasets as this is sent in a pseudonymised form, nor for the access by GPs to the linked dataset as this re-identification process is undertaken for direct care purposes.

The following applications were received by CAG and considered at this meeting:

Reference	Integrated Care Board (ICB)	Page
23/CAG/0103	NHS STAFFORDSHIRE AND STOKE-ON-TRENT ICB	6
23/CAG/0105	NHS LANCASHIRE AND SOUTH CUMBRIA ICB	10
23/CAG/0120	NHS SHROPSHIRE, TELFORD AND WREKIN ICB	13

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23/CAG/0118	NHS HUMBER AND NORTH YORKSHIRE ICB	30
23/CAG/0108	NHS SOUTH WEST LONDON ICB	33
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23/CAG/0109	NHS HAMPSHIRE AND ISLE OF WIGHT ICB	45
23/CAG/0128	NHS BATH AND NORTH EAST SOMERSET, SWINDON AND WILTSHIRE ICB	48
23/CAG/0126	NHS LEICESTER, LEICESTERSHIRE AND RUTLAND ICB	51
23/CAG/0129	NHS KENT AND MEDWAY ICB	54
23/CAG/0125	NHS CORNWALL AND THE ISLES OF SCILLY ICB	56
23/CAG/0115	NHS CAMBRIDGESHIRE AND PETERBOROUGH ICB	60
23/CAG/0113	NHS MID AND SOUTH ESSEX ICB	62
23/CAG/0117	NHS HERTFORDSHIRE AND WEST ESSEX ICB	64
23/CAG/0111	NHS NORFOLK AND WAVENEY ICB	67
23/CAG/0124	NHS BEDFORDSHIRE, LUTON AND MILTON KEYNES ICB	69
23/CAG/0127	NHS SUFFOLK AND NORTH EAST ESSEX ICB	72

3. GENERIC POINTS CONSIDERED BY THE CONFIDENTIALITY ADVISORY GROUP

Through consideration of individual applications members discussed a number of areas that were applicable across all applications. These are detailed once, below, but should be applied to all individual applications.

Definition of risk stratification and scope of support

Members were aware that the current risk stratification application (CAG 7-04(a)/2013), was supported for risk stratification only. As well, the scope of this support was reconsidered in 2017, with the outcome confirming that population health analytics is not included within the existing support.

Whilst Members reviewed the individual ICB applications below it was clear that many examples of use appeared to extend well beyond the CAG understanding on what constitutes risk stratification. Members agreed that these uses were more akin to wider population health management activities, where there is no direct impact to individual care.

Whilst Members are not against the use of confidential patient information for population health management, these activities will have different justifications for, and considerations of, the public interest of using large scale patient information without consent. These are not adequately detailed in the application and so are outside the scope of this support, though Members agreed they would be willing to consider specific applications for population health management.

The CAG agreed that, to avoid any confusion, a clear statement on what CAG understands risk stratification to be was necessary. This would encompass the scope of support. Members discussed that the way primary care is provided has developed over the past 10 years, and practices now may pool resources together to provide care, for example in Primary Care Networks. As such, reference to the data being used within the same practice may be outdated.

Members agree that the following term encompasses their understanding of what risk stratification is, and would be added as a condition of support to all outcome letters:

“Risk stratification is the process by which GP and secondary care confidential patient information are linked by ‘approved organisations’ and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems.

‘Section 251’ support is provided for this purpose and does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under ‘Section 251’ support given for this application.”

Informing patients and opportunity to dissent

Much of the documentation provided by ICBs to inform the patient population consisted of statements within GDPR privacy notices. Whilst it is a start to informing patients, members were unanimous that privacy notices alone do not constitute an adequate route to informing the patient population. As a minimum, patients should be informed through both the ICB and General Practice websites.

Applications varied in terms of future plans to inform the patient population, and individual comments are within each ICB application below.

The CAG understood that all applications are applying the National Data Opt Out but plans for an ICB level risk stratification opt out varied between applications. Members discussed more broadly that given these ICB applications comprise much of the population, an individual ICB level risk stratification opt out is far from ideal.

For example, what happens if a patient moves across ICB boundaries. Members also noted that some ICBs have contacted NHS England regarding a broader approach (for example using Snomed codes).

Some ICBs also appeared to refer to a risk stratification opt out mechanism that includes use of the Type 1 Opt Out. Members agreed that any ICB utilising this approach should proceed with caution given that this route will prevent information being shared outside a GP practice for purposes other than direct care, and may have broader consequences.

As well, some ICBs refer to using the 93C1 Snomed code members understand opts out patient's data being uploaded to the local shared care record. This should be used with extreme caution as it may impact direct patient care. Any ICB using this approach should make clear to patients in notification materials that their direct care may be affected if they opt out using this approach.

Members are aware of the Government commitment in the Data Saves Lives strategy, from June 2022, to work with stakeholders to simplify the opt out system. The CAG is keen to work with the Government on this, taking account of the situations encountered with risk stratification and other similar activities.

Patient and Public Involvement

Members noted that majority of ICBs had not yet conducted patient and public involvement, though many provided plans to undertake this in the near future. To support the patient and public involvement CAG expects that the work includes testing the acceptability of using confidential patient information without consent for the purpose of risk stratification (as defined above). ICBs may wish to consider including discussions on uses for population health management purposes to help support any future application on this. Members also encouraged that any materials that are used to inform the public are considered by a group of patients and public.

The HRA has comprehensive guidance on the [principles of public involvement](#). Whilst these are designed for use in research, the principles are applicable for this purpose. Members strongly encourage all ICBs to undertake patient and public involvement that is aligned with these principles.

Engagement with General Practices

There was little information in most applications about how ICBs are engaging with their General Practices about risk stratification, its approach, and how the opt out mechanism works. It is important that there is a comprehensive engagement strategy with practices, so they are aware of their responsibilities. For example, so receptionists can appropriately handle any questions or opt out requests by patients.

Members strongly encouraged all ICBs to ensure there is effective engagement with their practices. As a minimum each practice should receive an information pack about risk stratification, what it is, and how patients can opt out.

4. RISK STRATIFICATION APPLICATIONS

23/CAG/0103 - NHS STAFFORDSHIRE AND STOKE-ON-TRENT ICB

Contact:	Paul Winter
Data controller:	NHS Staffordshire and Stoke-on-Trent ICB
Risk stratification supplier:	NHS Midlands and Lancashire Commissioning Support Unit
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	<ol style="list-style-type: none"> 1. GP Data 2. Secondary Use Service (SUS) data, including <ol style="list-style-type: none"> a. Admitted Patients Care – Spells b. Admitted Patients Care – Episodes c. Outpatients
Identifiers required for linkage purposes	<ol style="list-style-type: none"> 1. NHS number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that no patient and public involvement had been undertaken and asked that this was undertaken, noting some details of plans provided in the application. The discussions needed to include testing the acceptability of the use of confidential patient information without consent. (Condition 1a)

The CAG also requested an ongoing plan of relevant continuous patient and public involvement. (Condition 1b)

The CAG noted that a privacy notice was inadequate for the purposes of a patient notification mechanism for this application. The CAG requested a layered approach was undertaken which would be specific to this project. That is to have broad information available to the public, directing to more detailed information for those that wish to read more. The CAG also asked that the privacy notice should be written in a way that was understood easily by lay individuals as it is currently complex (Condition 2), that should also:

- state that the activity is undertaken under 'section 251 support' provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG). (Condition 2a)
- describe the opt out process. (Condition 2b)
- be checked for accuracy (for example update references to NHS Digital to NHS England (Condition 2c)

The notification document should be reviewed by a group of patients and the public for accessibility. (Condition 2d)

The CAG requested an updated wider communication plan including any template notification materials that the applicant was planning to use. (Condition 3)

The CAG acknowledged that a specific opt out mechanism was difficult for this type of application based on technology and scope. The CAG discussed that no opt-out solution was not completely satisfactory for risk stratification because of its closeness to, and potential impact on, direct care. Therefore, the CAG requested that the privacy notice explain clearly that the current opt-out solution may come at a cost which could impact the care that they receive. (Condition 2b)

The CAG noted that the applicant was planning to send a pack to each GP practice with all the information regarding the risk stratification process including information for the GP patient participation group. The CAG encouraged the applicant to share resources with practices so staff can understand the activity and support patients.

Members noted that the Midlands and Lancashire CSU assurance document stated that "NHS England seconded staff and developers who are involved in product development tasks" may have access to identifiable information. The CAG requested confirmation within one month whether support is necessary for these activities. (Condition 4).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant

1.	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
2.	<p>Please update privacy notice in a lay language that is easily understood and provide to CAG within 3 months. This should include:</p> <ul style="list-style-type: none"> a. state that the activity is undertaken under 'section 251 support' provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG). b. describe the opt out process, including that opting out may impact the care they receive c. be checked for accuracy (for example update references to NHS Digital to NHS England d. The notification document should be reviewed by a group of patients and the public for accessibility. 	
3.	<p>Provide an updated communication plan to CAG within 3 months. This should include:</p> <ul style="list-style-type: none"> a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this 	

4.	Provide confirmation within one month whether support is necessary for NHS England seconded staff and developers to have access to Confidential Patient Information for product development tasks	
5.	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
6.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7.	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0105 - NHS LANCASHIRE AND SOUTH CUMBRIA ICB

Contact:	Asim Patel
Data controller:	NHS Lancashire and South Cumbria ICB
Risk stratification supplier:	NHS Midlands and Lancashire Commissioning Support Unit
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	<ol style="list-style-type: none">1. GP Data2. Secondary Use Service (SUS) data, including<ol style="list-style-type: none">a. Admitted Patients Care – Spellsb. Admitted Patients Care – Episodesc. Outpatients
Identifiers required for linkage purposes	<ol style="list-style-type: none">1. NHS number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that in the application, the applicant had stated that they may wish to expand the list of datasets once they receive section 251 support for both linkage and analysis. The CAG stated that if any additional items of confidential patient information were planned for linkage or analysis, this should be specified via amendment to CAG. (Condition 1)

The CAG noted that the privacy notice was inadequate for the purposes of a patient notification mechanism for this application, and complex for the average reader. The CAG requested a layered approach was undertaken which would be specific to this project. The CAG also asked that the privacy notice should be written in a way that was understood easily by lay individuals (Condition 2). The notification should also

- state that the activity is undertaken under 'section 251 support' provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG). (Condition 2a)
- describe the opt out process. (Condition 2b)

The notification document(s) should be reviewed by a group of patients and the public for accessibility. (Condition 2c)

The CAG asked that patient and public involvement was undertaken. The discussions needed to include the use of confidential patient information without consent as proposed in the application. (Condition 3a)

The CAG also requested an ongoing plan of relevant continuous patient and public involvement. (Condition 3b).

Members noted that the Midlands and Lancashire CSU assurance document stated that “NHS England seconded staff and developers who are involved in product development tasks” may have access to identifiable information. The CAG requested confirmation within one month whether support is necessary for these activities. (Condition 4).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1.	If any additional items of confidential patient information are planned for linkage or analysis in future, this should be specified via amendment to CAG.	
2.	<p>Please update privacy notice in a lay language that is easily understood and feedback provided to CAG within 3 months. This should include:</p> <p>a. state that the activity is undertaken under ‘section 251 support’ provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG).</p> <p>b. describe the opt out process, including that opting out may impact the care they receive.</p>	

	c. The notification document should be reviewed by a group of patients and the public for accessibility.	
3.	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
4.	Provide confirmation within one month whether support is necessary for NHS England seconded staff and developers to have access to Confidential Patient Information for product development tasks	
5.	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no</p>	

	direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support	
6.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7.	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification, highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0120 - NHS SHROPSHIRE, TELFORD AND WREKIN ICB

Contact:	Claire Skidmore
Data controller:	NHS Shropshire, Telford and Wrekin ICB
Risk stratification supplier:	NHS Midlands and Lancashire Commissioning Support Unit and Prescribing Services Limited
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	<ol style="list-style-type: none"> 1. GP Data 2. Secondary Use Service (SUS) data, including <ol style="list-style-type: none"> a. Admitted Patients Care – Spells b. Admitted Patients Care – Episodes c. Outpatients

Identifiers required for linkage purposes	1. NHS number
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The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that that the application provided a clear privacy notice, but did not contain the following, which should be added:

- state that the activity is undertaken under 'section 251 support' provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG). (Condition 1a)
- describe the opt out process. (Condition 1b)

The application detailed a communication strategy however none of the objectives were completed yet. Members asked for an update on progress with the communication strategy within 3 months, providing example notification materials. (Condition 2).

The CAG asked that patient and public involvement was undertaken. The discussions needed to include the use of confidential patient information without consent as proposed in the application. (Condition 3a)

The CAG also requested an ongoing plan of relevant continuous patient and public involvement. (Condition 3b)

Members noted that the Midlands and Lancashire CSU assurance document stated that "NHS England seconded staff and developers who are involved in product development tasks" may have access to identifiable information. The CAG requested confirmation within one month whether support is necessary for these activities. (Condition 4).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
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1.	<p>Please provide within 3 months an updated privacy notice to include:</p> <ul style="list-style-type: none"> a. state that the activity is undertaken under 'section 251 support' provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG). b. describe the opt out process, including that opting out may impact the care they receive. 	
2.	Provide an update on progress with the communication strategy within 3 months, providing example notification materials.	
3.	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
4.	Provide confirmation within one month whether support is necessary for NHS England seconded staff and developers to have access to Confidential Patient Information for product development tasks	
5.	Risk stratification is the process by which GP and secondary care confidential patient	

	<p>information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support</p>	
6.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7.	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0130 - NHS BLACK COUNTRY ICB

Contact:	Anthony Nicholls
Data controller:	NHS Black Country ICB
Risk stratification supplier:	NHS Midlands and Lancashire Commissioning Support Unit and Prescribing Services Limited
Application type:	Non-research

Submission type:	New application
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Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	<ol style="list-style-type: none"> 1. GP Data 2. Secondary Use Service (SUS) data, including <ol style="list-style-type: none"> a. Admitted Patients Care – Spells b. Admitted Patients Care – Episodes c. Outpatients
Identifiers required for linkage purposes	<ol style="list-style-type: none"> 1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG asked that patient and public involvement was undertaken. The discussions needed to include the use of confidential patient information without consent as proposed in the application. (Condition 1a)

The CAG also requested an ongoing plan of relevant continuous patient and public involvement. (Condition 1b)

The CAG noted that the privacy notice was inadequate for the purposes of a patient notification mechanism for this application, and complex for the average reader. The CAG requested a layered approach was undertaken which would be specific to this project. The CAG also asked that the privacy notice should be written in a way that was understood easily by lay individuals (Condition 2). The notification should also

- state that the activity is undertaken under 'section 251 support' provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG). (Condition 2a)
- describe the opt out process. (Condition 2b)

The notification document should be reviewed by a group of patients and the public for accessibility. (Condition 2c)

Members noted that the Midlands and Lancashire CSU assurance document stated that "NHS England seconded staff and developers who are involved in product development tasks" may have access to identifiable information. The CAG requested confirmation within one month whether support is necessary for these activities.

(Condition 3).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none">a. what routes were used to involve patients (e.g., focus groups, surveys etc.)b. a broad summary of the demographics of the attendees/respondents, and how many were involved.c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application.d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised.e. A description of how you will continue to involve patients and the public on this area moving forwards.	
2	<p>Please provide within 3 months an updated privacy notice to include:</p> <ul style="list-style-type: none">a. state that the activity is undertaken under 'section 251 support' provided by the Secretary of State for Health and Social Care, on advice from the Confidentiality Advisory Group (CAG).b. describe the opt out process, including that opting out may impact the care they receive.	

	c. The notification document should be reviewed by a group of patients and the public for accessibility	
3	Provide confirmation within one month whether support is necessary for NHS England seconded staff and developers to have access to Confidential Patient Information for product development tasks	
4	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0104 - NHS WEST YORKSHIRE ICB

Contact:	Dr James Thomas
Data controller:	NHS West Yorkshire ICB
Risk stratification supplier:	NHS North of England Commissioning Support Unit
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the Bradford GP footprint of the West Yorkshire ICB, except those that have opted out.
Data sources	1. GP Data 2. Secondary Use Service (SUS)
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

CAG noted that the application appeared to be specific for the Bradford area of West Yorkshire ICB only and were unclear why this approach was being taken. Members requested further clarity on this approach and stated that an amendment would be necessary to extend to wider areas of the West Yorkshire ICB. (Condition 1)

The CAG were aware that a patient and public involvement event took place on 27 August and asked for feedback on the outputs of the event to be provided within one month. (Condition 2a)

The CAG also requested a plan of ongoing continuous patient and public involvement. (Condition 2b)

The CAG noted that privacy notice was quite clear but was largely based upon GDPR requirements. Members also noted plans for wider communications, including social media and posters but no example materials of these were provided. As such, members requested:

- The privacy notice be checked for accuracy (for example references to NHS Digital remain) (Condition 3a)
- The privacy notice be updated to include details on how to opt out (Condition 3b)
- Remove references to wider population health management uses as these are outside scope of this support (as detailed above). (Condition 3c)
- Wider communication materials are provided to CAG within 3 months (Condition 4)

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1.	Please clarify why this application is specific for the Bradford area only within 3 months. An amendment will be necessary to extend wider in West Yorkshire ICB.	
2.	a. Provide feedback within one month on the patient and public involvement event held on 27 August 2023. b. Provide plan of ongoing relevant continuous patient and public involvement.	
3.	Please update privacy notice as follows, in line with advice in this letter, and provide to CAG for review within 3 months: a. Check for accuracy (e.g. update references to NHS Digital). b. Add details of how patients can opt out c. Remove references to wider population health management uses	
4.	Provide a communications plan to CAG within 3 months, including any materials that are to be used. This should include: a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this,	

5.	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
6.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7.	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0114 - NHS SOUTH YORKSHIRE ICB

Contact:	Will Cleary-Gray
Data controller:	NHS South Yorkshire ICB
Risk stratification supplier:	North of England Commissioning Support and Prescribing Services Ltd
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP Data 2. Secondary Use Service (SUS)
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

Members agreed that the ICB privacy notice was clear and that a plan was in place to undertake wider communications with the public. CAG requested an update on progress with communicating with the public, together with example materials in 3 months. (Condition 1).

The CAG noted the patient and public involvement undertaken to date was primarily focussed on the care record but did contain discussion on secondary uses of the data, including risk stratification. It was however unclear whether this included discussion on the acceptability of using confidential patient information without consent for risk stratification. Members agreed that a plan should be provided within 3 months to detail the ongoing patient and public involvement that will be undertaken. (Condition 2).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide an update on progress with communicating with the public, together with example materials in 3 months	
2	Provide a plan within 3 months to detail how ongoing patient and public involvement that will be undertaken	

3	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support</p>	
4	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
5	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0122 - NHS DERBY AND DERBYSHIRE ICB

Contact:	Chrissy Tucker
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Data controller:	NHS Derby and Derbyshire ICB
Risk stratification supplier:	North of England Commissioning Support Unit
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS data – A&E, inpatient and outpatient data
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

CAG noted that no patient and public involvement had been undertaken to date, and no plans were provided for future involvement. The applicants stated that plans are being drafted and CAG will be keen to see this at the earliest opportunity, together with plans to continue this in the future. This should be provided within two months. (Condition 1). Future patient and public involvement should include testing the acceptability of using confidential patient information without consent as proposed in the application.

The CAG noted that the application only provided the ICB privacy notice for the purposes of a patient notification mechanism for this application and no further information was provided about wider communication with the public. The applicants stated that plans are being drafted and CAG will be keen to see this at the earliest opportunity, together with any example materials. This should be provided within two months. (Condition 2).

Members commented that there is much work to be done to involve and inform the public, and expect these plans to be provided, after which further conditions to ensure that the work is undertaken may be applied.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for

Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1.	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
2.	<p>Provide a communications plan to CAG within 2 months, including any materials that are to be used. This should include:</p> <ul style="list-style-type: none"> a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this 	
3.	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care</p>	

	<p>to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
4.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
5.	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0121 - NHS NORTH EAST AND NORTH CUMBRIA ICB

Contact:	Professor Graham Evans
Data controller:	NHS North East and North Cumbria ICB
Risk stratification supplier:	North of England Commissioning Support Unit
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
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Data sources	1. GP data 2. SUS data
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

Members felt that this was overall a good application, even if the description of benefits was limited at times. The CAG agreed that the public engagement page was good and felt the ICB took public engagement seriously.

That said, members felt that the privacy notice was not easily understandable to members of the public and requested this is reviewed and updated within 3 months (Condition 1). As well, a plan for wider communications, with example materials should be provided within 3 months. (Condition 2).

Links were provided to past patient and public involvement from the ICB area, but CAG members noted that none appeared to be on risk stratification, and no further plans were provided. Members requested a plan on undertaking patient and public involvement on risk stratification within 3 months, including testing the acceptability of the use of confidential patient information without consent (Condition 3).

The CAG understood that the activity within the ICB was governed by an Information Governance group. The CAG expects to see GPs and patients as members of that group to help them with the decision making approaches and requested further clarity on this within 3 months. (Condition 4)

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide an updated privacy notice in lay friendly language within 3 months	

2	<p>Provide a communications plan to CAG within 3 months, including any materials that are to be used. This should include:</p> <ul style="list-style-type: none"> a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this, 	
3	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
4	<p>Provide clarity on how GPs and patients are involved in risk stratification decision making within the Information Governance Group, within 3 months.</p>	
5	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health</p>	

	<p>problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
6	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0118 - NHS HUMBER AND NORTH YORKSHIRE ICB

Contact:	Karina Ellis
Data controller:	NHS Humber and North Yorkshire ICB
Risk stratification supplier:	North of England Commissioning Support Unit
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
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Data sources	1. GP data 2. SUS data
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

Members felt that this was a good application with clear ambitions. The application provided examples of many routes to inform the public, though noted that these were dependent on budget. The CAG therefore requested to be provided an update on progress of informing the public within 3 months, providing example materials and any changes to the routes proposed in the application. (Condition 1).

The privacy notice was clear though members agreed the “Your Rights” section had confusing detail on how to opt out. It reads as if the national data opt out will be coming, and has not been updated since. Members therefore requested that the section on opt outs is reviewed and an update provided to CAG within 3 months (Condition 2).

Members were provided with an overview of other patient and public involvement that is informing current work for risk stratification. The CAG requested updated within 3 months on progress for undertaking patient and public involvement, including the use of confidential patient information without consent. (Condition 3)

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1.	Provide an update on progress of informing the public within 3 months, providing example materials and any changes to the routes proposed in the application.	
2.	Provide an update on the review of the opt	

	out section in the privacy notices, within 3 months	
3.	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
4.	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient</p>	

	Information for these wider purposes will not have a common law legal basis under 'Section 251' support	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0108 - NHS SOUTH WEST LONDON ICB

Contact:	Jamie Jong
Data controller:	NHS South West London ICB
Risk stratification supplier:	Intelligence Solutions for London (ISL) hosted by North East London (NEL) ICB
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	<ol style="list-style-type: none"> 1. Primary Care data 2. SUS Inpatient, Outpatient and A&E activity 3. Community Health Services data 4. Mental Health Services Dataset (MHSDS)
Identifiers required for linkage purposes	<ol style="list-style-type: none"> 1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that privacy notice was inadequate for the purposes of a patient notification mechanism and was complex for patients to understand (Condition 1).

The CAG requested the notice is updated in lay language. It should also:

- Be clear that the application is supported by the Secretary of State, following advice by CAG (Condition 1a)
- provide clearer information on how patients can opt out, both through the national data opt out and a risk stratification opt out (Condition 1b)

The updated privacy notice should be reviewed by a patient group (Condition 1c) and a version provided for GP websites (Condition 1d).

Members noted that other communication methods are being considered but no detail was provided. The CAG agreed that a communications plan, together with example materials, should be provided within 3 months. (Condition 2).

Members agreed that, whilst useful, evidence from a public event in February 2019, was not sufficient, and did not provide assurance on the key areas that CAG will expect to see. The CAG requested a plan for immediate and ongoing patient and public involvement within 3 months, which should include testing the acceptability of using confidential patient information without consent as proposed in the application. (Condition 3).

The current data flow diagram was considered too complex to understand. The CAG requested an amended data flow diagram, which clearly shows the flows of confidential patient information both within and between organisations. The data flow also needs to explain where support under s251 is required and where processing of confidential patient information will be undertaken under another legal basis, and where anonymised or pseudonymised data will be processed. (Condition 4).

It was noted that the applicant proposes to use the Mental Health Services Dataset (MHSDS) for risk stratification purposes. Members agreed that this contains very sensitive data and no justification had been provided for its use in risk stratification. Members requested such justification within 3 months. (Condition 5).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1.	<p>Provide within 3 months an updated privacy notice in lay language. This should:</p> <ol style="list-style-type: none"> Be clear that the application is supported by the Secretary of State, following advice by CAG provide clearer information on how patients can opt out, both through the national data opt out and a risk stratification opt out be reviewed by a patient group be provided for GP websites (or a version thereof). 	
2.	<p>Provide a communications plan to CAG within 3 months, including any materials that are to be used. This should include:</p> <ol style="list-style-type: none"> a description of routes to use to inform patients based on local area and demographics. Provision of example materials the timescales to starting this. 	
3.	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ol style="list-style-type: none"> what routes were used to involve patients (e.g., focus groups, surveys etc.) a broad summary of the demographics of the attendees/respondents, and how many were involved. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. A description of how you will continue to involve patients and the public on this area moving forwards. 	
4.	<p>Provide within 3 months an amended data flow diagram, which clearly shows the flows of confidential patient information both within and between organisations. The data flow also needs to explain where support under s251 is required and where processing of confidential patient</p>	

	information will be undertaken under another legal basis, and where anonymised or pseudonymised data will be processed.	
5.	Within 3 months provide justification for the use of the sensitive Mental Health Services Dataset (MHSDS) is necessary for risk stratification purposes.	
6.	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
7.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
8	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should, in its patient notification, highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0123 – NHS NORTH EAST LONDON ICB

Contact:	Henry Black
Data controller:	NHS North East London ICB
Risk stratification supplier:	Prescribing Services Ltd
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS: PD, APC, Outpatient, Community Services, Emergency Care Dataset, MHSDS and IAPT 3. Local datasets: Ambulance Service Data and 111 dataset
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes.

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

Members commended the effort the ICB had undertaken with this application, particularly on patient engagement.

The CAG noted, and were pleased to see, that public and patient involvement was undertaken in June 2023 but the outputs of the event were not provided and it was difficult for members to understand the link to risk stratification. CAG requested that the outcomes of the recommendations that were discussed by representatives was provided to CAG for review. (Condition 1a)

The CAG also requested an ongoing plan of relevant continuous patient and public involvement and the updates on the Patient and Public Involvement undertaken were provided when annual reviews are submitted. (Condition 1b)

The CAG noted that the privacy notice was comprehensive and detailed the key points. However, there was a lack of clarity on wider communication routes and materials that will be used to inform the patient population. CAG requested these to

be provided within 3 months. (Condition 2).

It was noted that the applicant proposes to use the Mental Health Services Dataset (MHSDS) for risk stratification purposes. Members agreed that this contains very sensitive data and no justification had been provided for its use in risk stratification. Members requested such justification within 3 months. (Condition 3).

Members noted that the example activities provided were not limited to risk stratification, as per above, and reminded applicants to ensure that processing is kept within bounds of the current scope of support.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1.	Provide the following in relation to patient and public involvement: a. detailed feedback on the outcomes of the June 2023 event that were discussed by representative groups, within 2 months. b. an ongoing plan of relevant continuous patient and public involvement and the updates on the Patient and Public Involvement undertaken, at the first annual review.	
2.	Provide a communications plan to CAG within 3 months, including any materials that are to be used. This should include: a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this,	
3.	Within 3 months provide justification for the use of the sensitive Mental Health Services Dataset (MHSDS) is necessary for risk stratification purposes	
4.	Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved	

	<p>organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support</p>	
5.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6.	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0112 - NHS CHESHIRE AND MERSEYSIDE ICB

Contact:	Rowan Pritchard-Jones
Data controller:	NHS Cheshire and Merseyside ICB
Risk stratification supplier:	Graphnet NHS Arden and Greater East Midlands CSU (AGEM) NHS Midlands and Lancashire Commissioning Support Unit (MLCSU)
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS inpatient, outpatient and A&E data 3. Mental Health Minimum Data Set (MHMDS)
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG reviewed the overarching patient and public intentions using existing forums, and that a PPIE lead is being appointed within the ICB. However, no evidence of specific work on risk stratification, or plans to do so have been provided. CAG requested a report on patient and public involvement in relation to risk stratification within 3 months, which should include testing the acceptability of using confidential patient information without consent as proposed in the application. (Condition 1a)

The CAG also requested an ongoing plan of relevant continuous patient and public involvement. (Condition 1b)

The CAG noted that, whilst planned broad communication routes were mentioned in the application, the applicants indicated a communications plan will be produced. CAG requested the plan is provided within 2 months, including template materials. (Condition 2).

The CAG noted that the application mentioned having a dedicated phone line for the purposes of the local opt-out. The CAG discussed whether that would be practical, specifically if it was going to be operating in working hours timeframe and requested further information on this route within 3 months (Condition 3).

It was noted that the applicant proposes to use the Mental Health Services Dataset (MHSDS) for risk stratification purposes. Members agreed that this contains very sensitive data and no justification had been provided for its use in risk stratification. Members requested such justification within 3 months. (Condition 4).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
2	<p>Provide a communications plan to CAG within 2 months, including any materials that are to be used. This should include:</p> <ul style="list-style-type: none"> a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this 	
3	<p>Provide within 3 months a summary of the risk stratification specific opt out mechanism, including how the phone line will be operated outside of working hours.</p>	
4	<p>Within 3 months provide justification for the use of the sensitive Mental Health Services Dataset (MHSDS) is necessary for risk</p>	

	stratification purposes.	
5	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
6	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

Contact:	James Woodland
Data controller:	NHS Dorset ICB
Risk stratification supplier:	Dorset HealthCare University Foundation Trust
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	<ol style="list-style-type: none"> 1. GP Data 2. Secondary Use Service (SUS) datasets which include the following: <ol style="list-style-type: none"> a. Admitted Patient Care Commissioning Datasets b. Outpatient Commissioning Datasets c. Emergency Care Data Set
Identifiers required for linkage purposes	<ol style="list-style-type: none"> 1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG agreed that this application fell short of expectations and a number of areas need addressing on patient and public involvement and patient notification.

Members felt that the ICB privacy notice was inaccessible to patients who would not understand what is written and requested that this is reviewed and updated in lay language (Condition 1a). As well, the information within practice privacy notices is inconsistent. Members noted the intention to update this and CAG expects that the ICB coordinates consistency across these (Condition 1b). It is strongly encouraged that the privacy notices are reviewed by a patient and public group. (Condition 1c).

Whilst broad information was provided on wider communication routes, no details on timescales and specific routes were provided, nor any template materials. The CAG agreed a comprehensive communications plan, with timescales and template materials, should be provided within 2 months. (Condition 2).

The CAG understood that there was no ICB wider mechanism in place for patients to opt out of risk stratification specifically. The CAG requested an update to progress on achieving one within 2 months. (Condition 3).

Members noted that broad information on generic patient and public involvement

events that the ICB/CCG have undertaken over the past three years, but no specific details on events specific to risk stratification were provided. The applicants mentions a survey on data sharing that was undertaken but there were no specific details on how it was conducted, the demographics, number of responses and how it links to risk stratification. As such, the CAG agreed that a comprehensive plan for undertaken patient and public involvement on risk stratification should be provided within 2 months. This should include testing the acceptability of using confidential patient information without consent as proposed in the application, and include how this will be an ongoing process. (Condition 4).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	<p>In relation to privacy notices:</p> <ul style="list-style-type: none"> a. Update the ICB privacy notice in lay language within 2 months. b. Provide a plan to ensure that practice privacy notices are consistent, with timescales, within 2 months. c. Ensure that the privacy notices are reviewed by a patient and public group. 	
2	<p>Provide a communications plan to CAG within 2 months, including any materials that are to be used. This should include:</p> <ul style="list-style-type: none"> a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this 	
3	<p>Provide an update on progress to create an ICB wide risk stratification specific opt out within 2 months.</p>	
4	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p>	

	<ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
5	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
6	<p>Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.</p>	

7	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should, in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0109 - NHS HAMPSHIRE AND ISLE OF WIGHT ICB

Contact:	Martin Sheldon
Data controller:	NHS Hampshire and Isle of Wight ICB
Risk stratification supplier:	Cerner Ltd UK
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS inpatient, outpatient and A&E data
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

Members agreed that the privacy notice was lengthy but was sufficient for current purposes. The CAG noted that wider communications are in development and should be available from October 2023. It was agreed that a communications plan detailing routes to inform patients should be provided within 3 months, together with

example materials. (Condition 1).

The CAG thanked the applicant for providing a summary of a patient and public event held in May 2023. Whilst members noted it was broadly regarding information sharing, it was unclear what specifically was discussed on risk stratification, and requested further information on this area specifically within 3 months. (Condition 2).

Members also were aware that a citizen information strategy is being developed and implemented from October 2023, which will engage with citizens. CAG appreciated this approach and requested a further update on planned engagement with patients and the public on risk stratification. (Condition 3).

CAG noted that the detail on patient benefits was limited, and that the use cases highlighted were more akin to population health management rather than risk stratification. Members reminded the applicants that the scope of the application is limited to risk stratification at this time, as set out in the conditions.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a communications plan to CAG within 3 months, including any materials that are to be used. This should include: a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this,	
2	Provide further information on what was discussed specifically on risk stratification at the May 2023 patient event within 3 months.	
3	Provide a further update on planned engagement with patients and the public on risk stratification, through the citizen information strategy, within 3 months.	
4	Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken	

	<p>to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0128 - NHS BATH AND NORTH EAST SOMERSET, SWINDON AND WILTSHIRE ICB

Contact:	Anett Loescher
Data controller:	NHS Bath and North East Somerset, Swindon and Wiltshire ICB
Risk stratification supplier:	Prescribing Services Ltd
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS data
Identifiers required for linkage purposes	a. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that application did not provide a description of the realised patient benefits for risk stratification, and requested the applicant reports on the benefits seen across the next year at the first annual review. (Condition 1).

Members reviewed the ICB privacy notice and felt it was acceptable as a start, but no wider routes or materials to inform patients and the public have been provided. The CAG requested that a communications plan is provided within 2 months, this should include details of the communication routes to be used, plus example materials and timelines. (Condition 2).

Members also noted the plans to engage and provide materials to GP practices by March 2024. The CAG felt that this was too long a period and requests that the communications plan include a section on updated timelines for GP privacy notice provision. (Condition 2a).

The CAG noted that no patient and public involvement was undertaken yet, and the applicant indicated that this would be undertaken by March 2024. Members highlighted the importance of engaging with patients and the public and that March 2024 is too long. As such, members asked for a plan for patient and public involvement, with PPI undertaken before March 2024, within 2 months. The discussions should include the use of confidential patient information without consent as proposed in the application. (Condition 3)

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for

Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a summary of the benefits realised for risk stratification at first annual review.	
2	<p>Provide a communications plan to CAG within 2 months, including any materials that are to be used. This should include:</p> <ul style="list-style-type: none"> a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this <p>Ensure the plan includes details on how GPs will be provided with a standard privacy notice, with timelines before March 2024.</p>	
3	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 2 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
4	Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved	

	<p>organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0126 - NHS LEICESTER, LEICESTERSHIRE AND RUTLAND ICB

Contact:	Daljit Bains
Data controller:	NHS Leicester, Leicestershire and Rutland ICB
Risk stratification supplier:	Prescribing Services Ltd & NHS Midlands and Lancashire Commissioning Support Unit (0CX)

Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	<ol style="list-style-type: none"> 1. GP Data 2. Secondary Use Service (SUS) data, including <ol style="list-style-type: none"> a. Admitted Patients Care – Spells b. Admitted Patients Care – Episodes c. Outpatients
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

On review of the privacy notice members agreed that, at 35 pages, it is too long and complex, making it challenging for patients to understand. The CAG therefore suggested that a layered approach was implemented, where simplified, easy-read versions of the material were made available. These should be provided to CAG for review. (Condition 1).

It was also noted that the information within the privacy notice on how patients can opt out of risk stratification is unclear, and should be added. (Condition 1a)

CAG reminded the applicants that GDPR privacy notices are not the primary route to inform patients and further work needs to be done in this area. A patient notification leaflet was provided and members noted it dated from 2013. The CAG agreed that this was not current and should be reviewed and updated to reflect the most up to date information, specific to risk stratification purposes. (Condition 2). The CAG also requested that the leaflet was amended to describe the opt-out mechanism (Condition 2a).

Members noted that the information provided from patient and public involvement from 2019 were more akin to informing patients, rather than engaging and involving them. As such, the CAG requested a plan for immediate and ongoing patient and public involvement, with timescales, within 2 months. The discussions should include the use of confidential patient information without consent as proposed in the

application. (Condition 3).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Given the length of the privacy notice, provide updated privacy notice, which has a layered structure, within 3 months. a. Clear details on how patients can opt out of risk stratification should be added.	
2	Provide a communications plan to CAG within 2 months, including any materials that are to be used. This should include: a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this,	
3	Patient and public involvement needs to be carried out, and feedback provided to CAG within 2 months. The feedback should include: a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will	

	continue to involve patients and the public on this area moving forwards.	
4	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0129 - NHS KENT AND MEDWAY ICB RISK STRATIFICATION

Contact:	Gaye Lewington
Data controller:	NHS Kent and Medway ICB

Risk stratification supplier:	Prescribing Services Ltd and Graphnet
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS data
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

Members commended the applicants for the patient and public involvement survey that was undertaken, and the outputs provided to CAG. The CAG noted the plan to repeat the survey in 6 months as well as ask for volunteers to a focus group. CAG requested to be updated in 6 months on progress of this survey. (Condition 1).

Members thanked the applicants for providing copies of the ICB and practice privacy notices. On review, members felt that the notices were difficult to read and contained lots of information that is inaccessible to patients and the public. The CAG encourages that these are reviewed and updated to provide information in a layered approach, as well as checking for inaccuracies (Condition 2).

A leaflet was also provided for review by members. The CAG thanked the applicants for providing it and suggested two updates (Condition 3)

- The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and this is inaccurate.
- The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide an update to ongoing patient and public involvement within 6 months.	
2	Within 2 months review and update the privacy notices to ensure that they are in an accessible, layered format and contain accurate information.	
3	<p>Update the patient leaflet and provide to CAG within 2 months with the following:</p> <ul style="list-style-type: none"> a. The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate. b. The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management. 	
4	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	

6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0125 - NHS CORNWALL AND THE ISLES OF SCILLY ICB

Contact:	Bev Gallagher
Data controller:	NHS Cornwall and the Isles of Scilly ICB
Risk stratification supplier:	Prescribing Services Ltd
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS data
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that no patient and public involvement was undertaken yet. The CAG asked to be provided with a plan for immediate and ongoing patient and public involvement. The discussions should include the use of confidential patient information without consent as proposed in the application. (Condition 1)

Members noted that there was an ICB privacy notice for risk stratification, but limited detail and materials have been provided for wider communication routes for informing patients and the public. Members requested a communication plan that fully details the routes to inform patients, template text that will be use and timescales for implementation within 2 months. (Condition 2).

It was noted that there is no current provision for a risk stratification specific opt out for this ICB, but this will be planned for. CAG therefore requested an update to provide a risk stratification specific opt out within 2 months. (Condition 3).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	<p>Patient and public involvement needs to be carried out, and feedback provided to CAG within 3 months. The feedback should include:</p> <ul style="list-style-type: none"> a. what routes were used to involve patients (e.g., focus groups, surveys etc.) b. a broad summary of the demographics of the attendees/respondents, and how many were involved. c. Summary of the topics discussed, which should include the use of confidential patient information without consent in relation to the linkages and purposes described in this application. d. A summary of the views of the groups, and whether you have updated anything to mitigate any concerns raised. e. A description of how you will continue to involve patients and the public on this area moving forwards. 	
2	<p>Provide a communications plan to CAG within 3 months, including any materials that are to be used. This should include:</p> <ul style="list-style-type: none"> a. a description of routes to use to 	

	<p>inform patients based on local area and demographics.</p> <p>b. Provision of example materials</p> <p>c. the timescales to starting this</p>	
3	Provide an update on progress towards a risk stratification specific opt out within 2 months.	
4	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0115 - NHS CAMBRIDGESHIRE AND PETERBOROUGH ICB

Contact:	Louis Kamfer
Data controller:	NHS Cambridgeshire and Peterborough ICB
Risk stratification supplier:	NHS Cambridgeshire & Peterborough Integrated Care Board and Prescribing Services Ltd
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1.GP data 2.SUS
Identifiers required for linkage purposes	1.NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that a regional patient and public involvement event, with 5 other regional ICBs is planned for Autumn 2023 with outputs available in November 2023. Members wished to remind the applicants that a key area is to test the acceptability of using confidential patient information without consent for the purposes of risk stratification. The CAG requested a report on the output of the event within 3 months. (Condition 1).

The applicants also noted the ICB will be undertaking some local patient and public involvement work which should be available by end of March 2024. Members thanked the ICB for their approach to patient and public involvement, and requested to see updates on this work at first annual review. (Condition 2).

Members reviewed the privacy notice and felt it was adequate. However, no other communication routes nor materials were provided with the application, with this being explored within the ICB. As such, CAG requested a communications plan with

details on routes to communicate with patients, template materials and timescales for implementation to be provided within 3 months. (Condition 3)

Members noted reference within the application documents that the National Data Opt Out is applied after data has been received. This is against policy and the CAG requested confirmation within 3 months that the National Data Opt Out is applied prior to any data leaving the practice. (Condition 4).

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a report of the regional patient and public involvement event within 3 months. The event should test the acceptability of using confidential patient information without consent for the purposes of risk stratification.	
2	Provide update to further patient and public involvement work at first annual review.	
3	Provide a communications plan to CAG within 3 months, including any materials that are to be used. This should include: <ul style="list-style-type: none"> a. a description of routes to use to inform patients based on local area and demographics. b. Provision of example materials c. the timescales to starting this, 	
4	Confirm within 3 months that the National Data Opt Out is applied before any information leave the GP Practice.	
5	Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health	

	<p>problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support</p>	
6	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0113 - NHS MID AND SOUTH ESSEX ICB

Contact:	Paula Wilkinson
Data controller:	NHS Mid and South Essex ICB
Risk stratification supplier:	Prescribing Services Ltd
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that a regional patient and public involvement event, with 5 other regional ICBs is planned for Autumn 2023 with outputs available in November 2023. Members wished to remind the applicants that a key area is to test the acceptability of using confidential patient information without consent for the purposes of risk stratification. The CAG requested a report on the output of the event within 3 months. (Condition 1).

Members thanked the applicants for providing copies of the ICB and practice privacy notices. On review, members felt that the notices were difficult to read and contained lots of information that is inaccessible to patients and the public. The CAG encourages these are reviewed and updated to provide information in a layered approach, as well as checking for inaccuracies (Condition 2).

A leaflet was also provided for review by members that will be available at practices. The CAG thanked the applicants for providing it and suggested two updates (Condition 3)

- The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate.
- The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a report of the regional patient and public involvement event within 3 months. The event should test the acceptability of using confidential patient information without consent for the purposes of risk	

	stratification.	
2	Within 2 months review and update the privacy notices to ensure that they are in an accessible, layered format and contain accurate information.	
3	<p>Update the patient leaflet and provide to CAG within 2 months with the following:</p> <ul style="list-style-type: none"> a. The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate. b. The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management. 	
4	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	

6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0117 - NHS HERTFORDSHIRE AND WEST ESSEX ICB

Contact:	Alan Pond
Data controller:	NHS Hertfordshire and West Essex ICB
Risk stratification supplier:	Arden and GEM Commissioning Support Unit, Prescribing Services Ltd and NHS Hertfordshire and West Essex ICB
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that a regional patient and public involvement event, with 5 other regional ICBs is planned for Autumn 2023 with outputs available in November 2023. Members wished to remind the applicants that a key area is to test the acceptability of using confidential patient information without consent for the purposes of risk stratification. The CAG requested a report on the output of the event within 3 months. (Condition 1).

The applicants also noted the ICB will be undertaking some local patient and public involvement work with the Hertfordshire and West Essex Patient Engagement Forum, which should be available by end of March 2024. Members thanked the ICB for their approach to patient and public involvement and requested to see updates on this work at first annual review. (Condition 2).

Members thanked the applicants for providing copies of the ICB and practice privacy notices. On review, members felt that the notices were difficult to read and contained lots of information that is inaccessible to patients and the public. The CAG encourages these are reviewed and updated to provide information in a layered approach, as well as checking for inaccuracies (Condition 3).

A leaflet was also provided for review by members that will be available at practices. The CAG thanked the applicants for providing it and suggested two updates (Condition 4)

- The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate.
- The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a report of the regional patient and public involvement event within 3 months. The event should test the acceptability of using confidential patient information without consent for the purposes of risk stratification.	
2	Provide update to further patient and public involvement work at first annual review.	
3	Within 2 months review and update the privacy notices to ensure that they are in an	

	accessible, layered format and contain accurate information.	
4	<p>Update the patient leaflet and provide to CAG within 2 months with the following:</p> <ul style="list-style-type: none"> a. The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate. b. The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management. 	
5	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
6	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
7	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one	

	where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0111 - NHS NORFOLK AND WAVENEY ICB

Contact:	Dr Frankie Swords
Data controller:	NHS Norfolk and Waveney ICB
Risk stratification supplier:	Prescribing Services Limited
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1. GP data 2. SUS
Identifiers required for linkage purposes	1. NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that a regional patient and public involvement event, with 5 other regional ICBs is planned for Autumn 2023 with outputs available in November 2023. Members wished to remind the applicants that a key area is to test the acceptability of using confidential patient information without consent for the purposes of risk stratification. The CAG requested a report on the output of the event within 3 months. (Condition 1).

Members noted that an ICB privacy notice was provided. The CAG commented that

this was long, but well written so recommended that the notice is reviewed to layer the information for ease of access. (Condition 2).

No wider communication materials were provided, but a detailed communications plan was available to members. The CAG commented that the plan was appreciated and for the applicant to report back on progress of implementing the plan within 3 months. The report should include example materials to be used with patients. (Condition 3)

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a report of the regional patient and public involvement event within 3 months. The event should test the acceptability of using confidential patient information without consent for the purposes of risk stratification.	
2	Review and update the privacy notice to make it easier for patients to access, for example layer the information. Report back within 3 months.	
3	Provide a report within 3 months which details progress on implementing the communications plan, including provision of example materials.	
4	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no</p>	

	direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.	
5	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
6	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0124 - NHS BEDFORDSHIRE, LUTON AND MILTON KEYNES ICB

Contact:	Sarah Whiteman
Data controller:	NHS Bedfordshire, Luton and Milton Keynes ICB
Risk stratification supplier:	Prescribing Services Limited
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1.GP data 2.SUS
Identifiers required for linkage purposes	1.NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that a regional patient and public involvement event, with 5 other regional ICBs is planned for Autumn 2023 with outputs available in November 2023. Members wished to remind the applicants that a key area is to test the acceptability of using confidential patient information without consent for the purposes of risk stratification. The CAG requested a report on the output of the event within 3 months. (Condition 1).

The applicants also noted the ICB will be undertaking some local patient and public involvement work by conducting a survey to capture views of residents. Members thanked the ICB for their approach to patient and public involvement and requested to see updates on this work at first annual review. (Condition 2).

Members were impressed with the variety of routes to be used to inform patients and commended the applicants for their work in this area. A leaflet/poster was also provided for review by members that will be available. The CAG thanked the applicants for providing it and requested two updates (Condition 3)

- The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate.
- The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a report of the regional patient and public involvement event within 3 months. The event should test the acceptability of using confidential patient information without consent for the purposes of risk stratification.	

2	Provide update to further patient and public involvement work at first annual review.	
3.	<p>Update the patient leaflet and provide to CAG within 2 months with the following:</p> <p>a. The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate.</p> <p>b. The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management.</p>	
4.	<p>Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose.</p> <p>It does not extend to wider population health management, where there is no direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.</p>	
5.	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with	

	an information pack.	
6.	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particular one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

23/CAG/0127 - NHS SUFFOLK AND NORTH EAST ESSEX ICB

Contact:	Andrew Kelso
Data controller:	NHS Suffolk and North East Essex ICB
Risk stratification supplier:	Prescribing Services Limited and Cerner Ltd
Application type:	Non-research
Submission type:	New application

Confidential information requested

Cohort	All patients using services within the ICB, except those that have opted out.
Data sources	1.GP data 2.SUS
Identifiers required for linkage purposes	1.NHS Number

The Group reviewed the above application in line with the CAG considerations.

Main issues considered, discussed and outcomes

The CAG noted that this activity fell within the definition of the management of health and social care services and was therefore assured that the application described an appropriate medical purpose within the remit of section 251 of the NHS Act 2006.

Having reviewed the application and considered the risks and benefits involved, the CAG was also assured that the proposed activity was in the public interest.

The CAG noted that a regional patient and public involvement event, with 5 other

regional ICBs is planned for Autumn 2023 with outputs available in November 2023. Members wished to remind the applicants that a key area is to test the acceptability of using confidential patient information without consent for the purposes of risk stratification. The CAG requested a report on the output of the event within 3 months. (Condition 1).

The applicants also noted the ICB is developing a local engagement plan with their patient group that will be focussed on risk stratification. Members thanked the ICB for their approach to patient and public involvement and requested to review the further plan within 3 months. (Condition 2).

A privacy notice was provided to members, The CAG was broadly content with the notice, but highlighted that there were some factual errors within it. For example, stating that risk stratification was a statutory requirement. Members asked for the privacy notice to be reviewed for ease of reading and factual accuracy and be provided to CAG within 2 months. (Condition 3).

Members agreed that the use of PALS to manage a risk stratification opt out may have difficulties. CAG wished to be reassured that those within PALS will have the appropriate level of training and support to manage any requests coming through this service. (Condition 4).

Members noted that the ICB were planning a communications campaign to ensure the public are informed. The CAG agreed that further information on plans to communicate and progress on this should be provided within 3 months. (Condition 5)

A leaflet/poster was also provided for review by members that will be available. The CAG thanked the applicants for providing it and requested two updates (Condition 6)

- The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate.
- The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management.

Confidentiality Advisory Group advice: Conditionally supported

The CAG agreed that the minimum criteria under the Regulations appeared to have been met, and therefore advised recommending support to the Secretary of State for Health and Social Care, subject to compliance with the specific and [standard conditions](#) of support as set out below.

Number	Condition	Response from the applicant
1	Provide a report of the regional patient and public involvement event within 3 months. The event should test the acceptability of using confidential patient information	

	without consent for the purposes of risk stratification.	
2	Provide further details on the local engagement plan within 3 months.	
3	Review the privacy notice for ease of reading and factual accuracy provide an updated version within 2 months. Examples of errors identified by CAG include statements that risk stratification is a statutory requirement.	
4	Within 3 months provide assurance to CAG that PALS will be appropriately trained and supported to manage a risk stratification opt out request.	
5	Provide an update on plans and progress to communicate to the public within 3 months.	
6	Update the patient leaflet and provide to CAG within 2 months with the following: <ul style="list-style-type: none"> a. The reference to risk stratification being a statutory requirement be removed. There is no legal requirement to undertake risk stratification and is inaccurate. b. The section on population health management is removed. As per section 4, the scope of support is for risk stratification for case finding only, not for wider population health management. 	
7	Risk stratification is the process by which GP and secondary care confidential patient information are linked by 'approved organisations' and analysis is undertaken to identify individual patients that are at risk of an adverse event. General Practices, or groups of local General Practices who pool care resources, are able to reidentify those patients at risk to enable preventative care to be offered to avert future health problems. 'Section 251' Support is provided for this purpose. It does not extend to wider population health management, where there is no	

	direct impact on individual care, and where the purpose of the processing is to commission, design or manage services for the benefit of the wider population and the NHS. Any use of Confidential Patient Information for these wider purposes will not have a common law legal basis under 'Section 251' support.	
8	Ensure that there is continuous engagement with General Practices, as a minimum providing each practice with an information pack.	
9	ICBs should utilise caution if using a Type 1 opt out or broader Snomed code approach to a specific risk stratification opt out. Any ICB using this approach, particularly one where it may affect input into the shared care record, should in its patient notification highlight to patients that opting out may affect the care received.	
The Group delegated authority to confirm its final opinion on the application to the Chair and reviewers.		

*Dr Tony Calland MBE CAG Chair, Dr Patrick Coyle
CAG Vice Chair & Ms Clare Sanderson CAG Alternate 18 September 2023
Vice Chair*

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Signed – Chairs

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Date

*Mr Dayheem Sedighi, HRA Approvals Administrator
& Dr Paul Mills, HRA Confidentiality Advice Service
Manager*

*12 September 2023
(Updated to correct an error
12 October 2023).*

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Signed

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Date