

DATA PROTECTION ACT 2018 AND UK GENERAL DATA PROTECTION REGULATION

REPRIMAND

The Information Commissioner (the Commissioner) issues a reprimand to University Hospitals Dorset NHS Foundation Trust (the Trust) in accordance with Article 58(2)(b) of the UK General Data Protection Regulation in respect of certain infringements of the UK GDPR.

The proposed reprimand

The Commissioner has decided to issue a reprimand to the Trust in respect of the following infringements of the UK GDPR:

- Article 5(1)(f) of the UK GDPR which states: "appropriate technical and organisational measures to be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data."

The reasons for the Commissioner's findings are set out below.

The Trust had a procedure in place that when issuing correspondence by letter would include the full postal address of other recipients of that letter without obtaining their consent to do so. This was done by way of cc at the bottom of the letter. Appropriate consideration had not been paid to the risk of this standard practice in relation to data protection and the potential impact that a disclosure could have on a data subject.

In this case, an address was disclosed to an ex-partner of the data subject, something they particularly wished to be withheld following previous allegations of abuse. The data subject had not advised the Trust that his address should not be disclosed to his ex-partner. However, it is considered that it would not be in his reasonable expectation that personal information would be disclosed without permission being sought. While the data subject has made no further complaint to the Trust, there is now a risk of unwanted contact which will remain.

In addition, the Trust did not have a clear process in place for managing such situations where there are parental disputes. It was noted that the Trust admitted that it did not have any formal system to flag patients for this kind of scenario, to ensure that personal data is not shared and remains restricted. It was also noted that there was no formal training provided to the administration staff involved for dealing with correspondence in these circumstances.

However, the primary concern was that the Trust had a process in place, which posed significant risk due to proactive disclosure of the data subject's personal data. It is the fact that this risk was not considered or identified, and that a formal process to obtain consent was not in place, that it is considered that this matter warrants a reprimand.

Mitigating factors

We have noted that the Trust stated that prior to the incident there had been no instance where one parent had objected to their details being shared with the other, in the way this situation occurred.

It is also noted that no formal complaint was made by the data subject at the time. There has been no evidence seen that a formal complaint been made since, or that any request has been made to escalate the issue to a formal complaint.

It is also recognised that the Trust's intent by this practice was to prevent any errors when manually writing addresses on envelopes when posting to the third parties concerned.

Remedial steps taken by the Trust

The Commissioner has also considered and welcomes the remedial steps taken by the Trust in the light of this incident.

In particular, that in the immediate aftermath of the incident, an apology was issued to the data subject, in person from a doctor and from the Directorate Manager. The Trust also began a thorough investigation into the matter and an action plan implemented to ensure that remedial measures were completed.

It has been noted that the Trust has undertaken a benchmarking exercise with other organisations in order to set a clear policy position for the Child Health directorate for handling situations where there may be parental disputes. This benchmarking exercise should help the Trust in establishing good practices going forward.

The Commissioner welcomes the efforts made by the Trust to implement practices where similar situations can be more immediately recognised. Such as the procedure proposed by the Trust where, when requested by a parent, a clinician dictating a letter would note that a duplicate letter should be blind copied to the other parent.

These remedial measures, when fully implemented by the Trust should ensure that a similar incident is much less likely to occur in the future.

Decision to issue reprimand

Taking into account all the circumstances of this case, including the mitigating factors and remedial steps, the Commissioner has decided to issue a reprimand to the Trust in relation to the infringements of Article 5(1)(f) of the UK GDPR set out above.

Further Action Recommended

The Commissioner recommends that the Trust should take certain steps to ensure its compliance with UK GDPR. With particular reference to Article 5(1)(f) of the UK GDPR, the following steps are recommended:

- 1 It is recommended that the Trust complete a review of its practices, incorporating any relevant learnings from the benchmarking exercise to identify any further areas of risk.
- 2 The Trust should also ensure that areas identified by the action plan are fully implemented and subject to regular review.