



Information Commissioner's Office

## Liberating the NHS: Developing the Healthcare Workforce

### A consultation on proposals

The Information Commissioner has responsibility for promoting and enforcing the Data Protection Act 1998 (DPA) and the Freedom of Information Act 2000 (FOIA). He is independent from government and upholds information rights in the public interest, promoting openness by public bodies and data privacy for individuals. The Commissioner does this by providing guidance to individuals and organisations, solving problems where he can, and taking appropriate action where the law is broken.

The Information Commissioner's Office (ICO) welcomes the opportunity to respond to this consultation. In the response we shall focus on issues that have transparency, data protection and privacy implications.

### **General comments**

To help embed two of the key drivers behind "Liberating the NHS"; openness and accountability, we consider that important organisations such as the Centre for Workforce Intelligence and Health Education England should be public authorities as defined by the FOIA. Placing these bodies under the auspices of the FOIA can only be of benefit. This is because they will be under an obligation not only to provide information in response to specific requests but they will also have to pro-actively publish a lot of information via their publication schemes (section 19 of the FOIA requires all public authorities to operate these schemes).

In addition because it is not made clear in the consultation paper, we think that Privacy Impact Assessments should be carried out with both these organisations to identify where they will be processing the personal data of individuals who are employed within the NHS. Taking this action will help to demonstrate and build trust with those who suspect their personal data will be abused by central bodies with new powers to collect information (both personal and non-personal).

## **Specific comments**

Ch2, p18, para 2.4 – one of the points made is that there should be sustainable and transparent investment in education and that funding allocated for education and training should only be spent on those activities. We think that one way to achieve this is to ensure that the organisations involved using this funding are (for these purposes at least) designated as public authorities under the provisions of the FOIA. This would have a two-fold benefit. Firstly individual enquiries about how they operate could be made and the public authority would have to respond. Secondly, as a public authority, they would be obliged to operate a publication scheme and make information pro-actively available.

Ch6, p46, para 6.10 – There is a reference to the Centre for Workforce Intelligence needing to access data from healthcare providers about the current and future healthcare workforce. Where this information is personal data, the data controllers involved (be it the disclosing organisation or the Centre for Workforce Intelligence) must ensure that those individuals are fully informed about the disclosure of their personal data and the reasons for doing so (the fair processing requirements of the DPA).

We have no further comments to make in respect of this consultation.

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