



## Health Research Authority

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08 November 2021

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Laura Thomas  
Research Director  
Ipsos MORI  
3 Thomas More Square  
London  
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Dear Laura,

**Application title:** 2021 NHS Adult Inpatient Main Stage Survey – Mixed Methods  
**CAG reference:** 21/CAG/0147

Thank you for submitting a **non-research** application under Regulation 5 of the Health Service (Control of Patient Information) Regulations 2002 ('section 251 support') to process confidential patient information without consent.

Supported applications allow the controller(s) of the relevant data sources, if they wish, to provide specified information to the applicant for the purposes of the relevant activity without being in breach of the common law duty of confidence. Support provides a lawful basis to allow the information to be processed by the relevant parties for the specified purposes without incurring a breach of the common law duty of confidence only. Applicants must ensure the activity remains fully compliant with all other relevant legislation.

The role of the Confidentiality Advisory Group (CAG) is to review applications submitted under these Regulations and to provide advice to the Secretary of State for Health and Social Care on whether application activity should be supported, and if so, any relevant conditions. This application was considered at the CAG meeting held on 30 September 2021. The application was considered via the precedent set process under category 11. Applications made to administer surveys on behalf of CQC.

This outcome should be read in conjunction with the provisional support letter dated 13 October 2021.

### **Secretary of State for Health and Social Care decision**

The Secretary of State for Health and Social Care, having considered the advice from the Confidentiality Advisory Group as set out below, has determined the following:

The application, to allow the disclosure of confidential patient information from acute and specialist trusts one of three approved contractors for the purpose of sending out questionnaires for the 2021 Adult Inpatient Survey, and for disclosure of postcode to IPSOS MORI for analysis purposes, is conditionally supported, subject to compliance with the standard and specific conditions of support.

***Please note that the legal basis to allow access to the specified confidential patient information without consent is now in effect.***

## **Context**

### Purpose of application

This non-research application submitted by Ipsos MORI on behalf of the Care Quality Commission, sets out the purpose of conducting the 2021 NHS Adult Inpatient Survey.

The Adult Inpatient Survey is the most established survey within the NHS Patient Survey Programme (NPSP). The NPSP was initiated in 2002 by the then Department of Health, and is now overseen by the Care Quality Commission (CQC), the independent regulator of health and social care in England. The 2021 Adult Inpatient survey will be the nineteenth carried out to date, and the second mainstage to be completed using a mixed method approach, following a pilot of the approach during 2019 and the first mainstage during 2021. The NHS Patient Survey programme is used to help the CQC understand what patients think of the NHS healthcare services they use. The results from the Adult Inpatient Survey will help to assess NHS performance and the CQC will use the findings for regulatory activities such as monitoring ongoing compliance and reviews. Trusts will also use the findings to monitor performance, and to drive improvements and initiatives at a local level.

All eligible trusts (137) will be asked to conduct the survey, with preparations expected to begin in the autumn of 2021 and fieldwork expected to start from January 2022. All trusts will draw a sample of patients according to set criteria, and follow standardised materials and procedures for all stages of the survey.

The 2021 Adult Inpatient Survey will be managed and coordinated by Ipsos MORI in their role as the Coordination Centre for Mixed Methods. The survey will follow the same mixed method approach as the 2020 Adult Inpatient Survey, which was developed and tested during the 2019 Adult Inpatient Pilot Study, and completed in 2021 with a response rate of 45.9%, which is consistent with other surveys in the NPSP. The applicants anticipate that the vast majority of trusts involved will opt to use an approved survey contractor, either Picker, Quality Health, Patient Perspective, to facilitate the sending of surveys.

	Mode of contact
Contact 1	Postal letter inviting the patient to take part online
Contact 1.1	Three days later an SMS reminder will be sent, including a direct link to the online survey
Contact 2	In week 2, a reminder letter will be sent to non-responders
Contact	Three days later an SMS reminder will be sent, including a direct link to the

2.2	online survey
Contact 3	Final, postal reminder sent, along with a paper questionnaire

A recommendation for class 5 and 6 support was requested to cover access to the relevant unconsented activities as described in the application.

Confidential patient information requested

The following sets out a summary of the specified cohort, listed data sources and key identifiers. Where applicable, full datasets and data flows are provided in the application form and relevant supporting documentation as this letter represents only a summary of the full detail.

<b>Cohort</b>	Inpatients aged 16 years old or over who were discharged from acute and specialist NHS hospitals in November (and earlier for smaller trusts), having had at least one overnight stay in hospital.  A list of reasons for exclusion, such as deceased patients and those under 16 years of age at the time of sampling, was included in the application.
<b>Data sources</b>	1. Electronic patient records with acute and specialist trusts in England.
<b>Identifiers required for contact purposes</b>	1. Title 2. Initials or first name 3. Surname 4. Address fields including postcode 5. Mobile phone number 6. Patient unique identifier
<b>Identifiers required for analysis purposes</b>	1. Unique identifier (a three-digit Trust code and 4 digital serial number related to sampled patient) 2. Postcode 3. Trust code 4. Year of birth 5. Gender 6. Ethnic category 7. Date of admission 8. Date of discharge 9. Length of Stay 10. Treatment Function Code 11. ICD-10 Chapter Code 12. Treated as a suspected or confirmed covid-19 case 13. CCG code 14. Treatment Centre Admission 15. Admission method 16. NHS Site code-Admitted 17. NHS Site code-Discharged 18. Discharge Pathway

## Confidentiality Advisory Group advice

This letter summarises the outstanding elements set out in the provisional support letter, and the applicant response. The applicant response was considered by the Confidentiality Advice Team (CAT).

### 1. The DSPT for Patient Perspective, as noted below, needs to be provided.

The applicant provided the reviewed DSPT to the CAG inbox on 8 November 2021.

## Confidentiality Advisory Group advice conclusion

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.

## Specific conditions of support

1. Patient and public involvement around the specific issue of processing of confidential patient information without consent needs to be conducted and fed-back to the CAG at the first annual review.
2. More work should be done with participating Trusts to encourage effective notification, and an account of this should be fed back at Annual Review.
3. Confirmation provided from the IG Delivery Team at NHS Digital to the CAG that the relevant Data Security and Protection Toolkit (DSPT) submission(s) has achieved the 'Standards Met' threshold. See section below titled 'security assurance requirements' for further information **Confirmed:**

The NHS Digital **2020/21** DSPT review for **Ipsos Mori, Quality Health Ltd and the Picker Institute Europe** were confirmed as 'Standards Met' on the NHS Digital DSPT Tracker (checked 30 September 2021).

The NHS Digital **2020/21** DSPT review for **Patient Perspective** was confirmed as '**Standards Met**' by email to the CAG inbox on 8 November 2021.

As the above conditions have been accepted and met, this letter provides confirmation of final support. I will arrange for the register of approved applications on the HRA website to be updated with this information

## Application maintenance

### Annual review

Please note that this legal support is subject to submission of an annual review report, for the duration of support, to show that the minimal amount of patient information is

being processed and support is still necessary, how you have met the conditions or report plans, any public benefits that have arisen and action towards meeting them. It is also your responsibility to submit this report every 12 months for the entire duration that confidential patient information is being processed without consent.

The next annual review should be provided no later than **08 November 2022** and preferably 4 weeks before this date. Reminders are not issued so please ensure this is provided annually to avoid jeopardising the status of the support. Submission of an annual review in line with this schedule remains necessary even where there has been a delay to the commencement of the supported activity, or a halt in data processing. Please ensure you review the HRA website to ensure you are completing the most up to date 'section 251' annual review form as these may change.

For an annual review to be valid, there must also be evidence that the relevant DSPT submission(s) for organisations processing confidential patient information without consent are in place and have been reviewed by NHS Digital. Please plan to contact NHS Digital in advance of the CAG annual review submission date to check they have reviewed the relevant DSPTs and have confirmed these are satisfactory.

### **Register of Approved Applications**

All supported applications to process confidential patient information without consent are listed in the published 'Register of Approved Applications'. It is a statutory requirement for the Register to be published and it is available on the CAG section of the Health Research Authority website. It contains applicant contact details, a summary of the research and other pertinent points.

This Register is used by controllers to check whether support is in place.

### **Changes to the application**

The application and relevant documents set out the scope of the support which is in place for the application activity and any relevant restrictions around this.

Any amendments which are made to the scope of this support, including but not limited to, purpose, data flows, data sources, items of confidential patient information and processors, require submission of a formal amendment to the application. Changes to processors will require evidence of satisfactory DSPT submission. The amendment form can be found in the Confidentiality Advisory Group pages on the Health Research Authority website.

Support for any submitted amendment would not come into effect until a positive outcome letter has been issued.

### **Changes to the controller**

Amendments which involve a change to the named controller for the application activity require the submission of a new and signed CAG application form and supporting documentation to support the application amendment. This is necessary to ensure that the application held on file appropriately reflects the organisation taking responsibility for the manner and purpose of data processing within the application, and that the legal support in place is related to the correct legal entity.

Applicants are advised to make contact with the Confidentiality Advice Team to discuss a change in controllership for an existing application in sufficient time ahead of the transfer of project responsibility to discuss the submission process timings.

Further information and relevant forms to amend the support is available on the HRA website.

### Reviewed documents

The documents reviewed at the meeting are as follows.

<i>Document</i>	<i>Version</i>	<i>Date</i>
CAG application from (signed/authorised) [21033459-01 IP21_Section 251 Application_10.09.2021_SIGNED]		10 September 2021
Other [21-033459-01 IP21_Sample declaration form - in house_V1_INT CLIENT USE]	1	
Other [21-033459-01 IP21_Sample declaration form - contractor_V1_INT CLIENT USE]	1	
Other [21-033459-01 IP21_Survey handbook_V1_INT CLIENT USE]	1	
Other [21-033459-01 IP21 Questionnaire_VERSION FOR COG TESTING R1_INT CLIENT USE]		
Other [HRA letter re Service Evaluations will not be considered by HRA_IP21]		
Other [Ipsos MORI Physical Security Policy V4_IP21]	4	
Other [Quality Health Limited 27001 220419]		
Other [Ipsos MORI Information Security Policy V11_IP21]		
Other [Quality Health Security_Policy v5 UNCONTROLLED]		
Other [21-033459-01 IP21_Sampling Instructions_V1_INT CLIENT USE]	1	
Other [21-033459-01 IP21 Multilanguage sheet_V1_INT CLIENT USE]	1	
Other [Quality Health Data Protection Policy - UNCONTROLLED COPY]		
Other [19CAG0102 Conditionally Supported Outcome]		
Other [20CAG0085 final support letter - non-research]		
Other [Ipsos MORI Data Protection Policy V5 IUO_IP21]		
Other [21-033459-01 IP21 Data Flow for section n_V1_INT CLIENT USE]	1	
Other [Patient Perspective System Level Security Policy 2021]		
Other [21-033459-01 IP21_Data flow diagram - postcode_V1_INT CLIENT USE]	1	
Other [IP21 Care Quality Commission letter_IP21]		
Other [Ipsos MORI ICO Registration Certificate_IP21]		
Other [Quality Health Organisation and System Data Security Pol]		
Other [Picker - Network security policy - related sections for Section 251 IP21]		

Other [Picker - Network security policy]		
Other [21-033459-01 IP21 Information Flowchart_V1_INT CLIENT USE]	1	
Other [21-033459-01 IP21 Model Service Contract_V1_INT CLIENT USE]	1	
Other [Patient Perspective Confidentiality Audit Policy 2021]		
Other [21-033459-01 IP21_Sample construction worksheet - in house_V1_INT CLIENT USE]	1	
Other [21-033459-01 IP21_Sample construction worksheet - contractor_V1_INT CLIENT]	1	
Other [21-033459-01 IP21 SMS Guidance_V1_INT CLIENT USE]	1	
Other [Ipsos MORI Confidentiality details_IP21]		
Patient Information Materials [21-033459-01 Dissent poster IP21 English]		
Patient Information Materials [21-033459-01 IP21_Publicising the survey_V1_INT CLIENT USE]	1	
Patient Information Materials [21-033459-01 IP21 First Mailing Letter_V1_INT CLIENT USE]	1	
Patient Information Materials [21-033459-01 IP21 Second Mailing Letter_V1_INT CLIENT USE]	1	
Patient Information Materials [21-033459-01 IP21 Third Mailing Letter_V1_INT CLIENT USE]	1	
Patient Information Materials [21-033459-01 IP21_Dissent information_V1_INT CLIENT USE]	1	
Written recommendation from Caldicott Guardian (or equivalent) of applicant's organisation [20200616 IP20 Caldicott Guardian recommendation letter V2]	2	

### **Membership of the Committee**

The members of the Confidentiality Advisory Group who were present at the consideration of this item are listed below.

No conflicts of interest were declared.

Please do not hesitate to contact me if you have any queries following this letter. I would be grateful if you could quote the above reference number in all future correspondence.

With the Group's best wishes for the success of this project.

Yours sincerely

Kathleen Cassidy  
Confidentiality Advisor

On behalf of the Secretary of State for Health and Social Care

Email: [cag@hra.nhs.uk](mailto:cag@hra.nhs.uk)

*Included:*

List of members who considered application  
Standard conditions of support



**Confidentiality Advisory Group meeting attendance  
30 September 2021**

**Members present:**

<i>Name</i>	
Dr Tony Calland MBE	CAG Chair
Dr Patrick Coyle	CAG vice-chair
Mr David Evans	CAG member
Dr Harvey Marcovitch	CAG member
Ms Diana Robbins	CAG member
Ms Clare Sanderson	CAG alternative vice-chair
Ms Rose Payne	CAG member
Mr Dan Roulstone	CAG member
Dr Pauline Lyseight-Jones	CAG member

**Also in attendance:**

<i>Name</i>	<i>Position (or reason for attending)</i>
Ms Katy Cassidy	HRA Confidentiality Advisor
Ms Caroline Watchurst	HRA Confidentiality Advisor
Dr Paul Mills	HRA Confidentiality Advice Service Manager
Ms Emma Marshall	HRA Confidentiality Specialist
Mr Michael Pate	HRA Confidentiality Advisor
Ms Natasha Dunkley	HRA Head of Confidentiality Advice Service

### **Standard conditions of support**

Support to process the specified confidential patient information without consent, given by the Secretary of State for Health and Social Care, is subject to compliance with the following standard conditions of support.

The applicant and those processing the information under the terms of the support will ensure that:

1. The specified confidential patient information is only used for the purpose(s) set out in the application.
2. Confidentiality is preserved and there are no disclosures of information in aggregate or patient level form that may inferentially identify a person, nor will any attempt be made to identify individuals, households or organisations in the data.
3. Requirements of the Statistics and Registration Services Act 2007 are adhered to regarding publication when relevant, in addition to other national guidance.
4. All staff with access to confidential patient information have contractual obligations of confidentiality, enforceable through disciplinary procedures.
5. All staff with access to confidential patient information have received appropriate ongoing training to ensure they are aware of their responsibilities and are acting in compliance with the application detail.
6. Activities must be compliant with the General Data Protection Regulation and relevant Data Protection Act 2018.
7. Audit of data processing by a designated agent is facilitated and supported.
8. The wishes of patients who have withheld or withdrawn their consent are respected.
9. Any significant changes (for example, people, purpose, data flows, data items, security arrangements) must be approved via formal amendment prior to changes coming into effect.
10. An annual review report is submitted to the CAG every 12 months from the date of the final support letter, for the duration of the support.
11. Any breaches of confidentiality around the supported flows of information should be reported to CAG within 10 working days of the incident, along with remedial actions taken/to be taken. This does not remove the need to follow national/legal requirements for reporting relevant security breaches.