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Mr Ian Seccombe
Care Quality Commission
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10 January 2013

Dear Mr Seccombe

ECC 8-02 (FT4)/2013 CQC 2013 Community Mental Health Survey

Thank you for your application for approval under the Health Service (Control of Patient Information) Regulations 2002 to process patient identifiable information without consent. Approved applications enable the data controller to provide specified information to the applicant for the purposes of the relevant activity, without being in breach of the common law duty of confidentiality. The role of the NIGB Ethics and Confidentiality Committee (ECC) is to review applications submitted under these Regulations and to provide advice to the Secretary of State for Health (SofS) on whether an application should be approved, and if so, any relevant conditions. This application was considered via the proportionate review process under criteria 14: *repeat projects*.

Secretary of State decision

Following consideration of the ECC advice, reproduced below, the Secretary of State has determined that the application should be approved.

Context

Purpose of application

This application from the Care Quality Commission (CQC) detailed a patient survey which aimed to improve the mental health and well-being of the nation and improve outcomes for people with mental health problems. The community mental health services survey was one of the key sources of information to assess progress in improving the experience of healthcare for people with a mental illness.

A recommendation for class 3, 5 and 6 support was requested to provide a legitimate basis for the transfer of confidential patient information from mental health trusts (up to 58 trusts) and PCTs providing mental health services to one of three 'approved' contractors

and to the central coordinator (Picker Institute Europe), to enable contractors to send out questionnaires. Patients over the age of 18 only would be included.

Confidential patient information requested

Access was requested to name, full postal address, gender, year of birth, ethnicity, date of last contact, Care Programme Approach (CPA) status and GP code in order to send questionnaire and allow subsequent analysis.

ECC advice

This application was reviewed by two members and the chair outside a formal committee meeting. It was noted that the survey methodology proposed was identical to previous surveys and that the justification for the use of particularly sensitive data had been considered to be satisfactory by the committee for the 2012 Community Mental Health survey.

The committee had requested that the applicant provide information in relation to a number of points following the initial Community Mental Health survey in December 2011:

1. Evidence of the benefit of the patient survey to patient care.
2. Evidence of engagement with service users.
3. Alternative methods to ensure that CPA status could be disclosed in a pseudonymised format, which could then be linked to survey responses, should be explored.
4. Guidance to be provided to trusts in relation to meeting fair processing requirements to ensure reasonable efforts are made to inform patients.

The applicant provided a cover letter with the current application which addressed each of these points in detail. This letter was forwarded to members who agreed that each point had been addressed satisfactorily and that support could be recommended for the 2013 survey.

ECC conclusion

In line with the comments above, members agreed that the minimum requirements of the Regulations appeared to have been met and agreed to provide a recommendation of approval for this activity, subject to the following conditions.

Conditions of support

1. Confirmation of a favourable REC opinion. **Received**
2. Confirmation of satisfactory security arrangements. (see below)

As the above conditions have been met this letter provides confirmation of final approval. I will arrange for the register of approved applications to be updated to include this information.

Security arrangements

Due to a recent organisational change, the security review assurance process managed by the Department of Health has been amended in line with the policy directive that all bodies processing NHS data should provide assurance via the Information Governance Toolkit. In line with this, organisations are now expected to provide assurance via the IG Toolkit. Quality Health is therefore advised to ensure that they are aware of this requirement and take steps to work towards this aspect.

It was advised by the Department of Health Security Review team that where survey contractors have had SLSPs approved for past surveys they would not be required to complete the IG toolkit currently, although should work towards doing so by March 2013. CQC is therefore advised that IG toolkit assessments need to be completed for any new contractors and existing contractors should work towards completion of the toolkit.

It was noted that no new contractors would be used for this survey; the security arrangements for this survey have therefore been confirmed as satisfactory.

Annual review/Closure report

Please note that this recommendation is subject to submission of an annual review report to show how you have met the conditions or report plans, and action towards meeting them. It is also your responsibility to submit this report on the anniversary of your final approval and to report any changes such as to the purpose or design of the proposed activity, or to security and confidentiality arrangements. If you will no longer require support under the Regulations within this annual period then please submit a closure report confirming that you will no longer be processing confidential patient information without consent for the purposes of this application.

Important changes

Please note that the current administration of applications made under these Regulations by the NIGB Ethics and Confidentiality Committee is due to transfer to the Health Research Authority by 01 April 2013. Such arrangements will be communicated to applicants once confirmed.

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.

Yours sincerely

Claire Edgeworth
NIGB Deputy Approvals Manager

Standard conditions

The approval provided by the Secretary of State for Health is subject to the following standard conditions.

The applicant will ensure that:

1. The specified patient identifiable information is only used for the purpose(s) set out in the application.
2. Confidentiality is preserved and that there is no disclosure 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.
4. All staff with access to patient identifiable information have contractual obligations of confidentiality, enforceable through disciplinary procedures.
5. All staff with access to patient identifiable information have received appropriate ongoing training to ensure they are aware of their responsibilities.
6. Activities are consistent with the Data Protection Act 1998.
7. Audit of data processing by a designated agent of the Secretary of State is facilitated and supported.
8. The wishes of patients who have withheld or withdrawn their consent are respected.
9. The NIGB Office is notified of any significant changes (purpose, data flows, security arrangements) to the application.
10. An annual report is provided no later than 12 months from the date of your final confirmation letter. Details are available on the NIGB website.
11. Any breaches of security around this particular flow of data should be reported to the NIGB within 10 working days, along with remedial actions taken.