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General
Medical
Council

July 2014
Information Access Team

Regulating doctors
Ensuring good medical practice

Notes of the Meeting held on 22 July 2014

Members Present

Julian Graves JG

Code A

1. Performance and Health Team presentation

Code A spoke to the team regarding the Performance Assessment and Health Assessment Teams.

2. Action points update and approval of minutes from previous meeting

Action point 1: Code A to consider what falls within the scope of a dataset – Carried forward

Code A has made progress on identifying a 'dataset' from the table that Code A provided. JG and Code A to have a meeting tomorrow to come up with some key examples.

Action point 2: JG & Code A revising the wording of the publication scheme – Carried forward

JG working on this, waiting for information from Christine Challis regarding the cost of the transcripts

Action point 3: Code A to consider having a formal written process for ID checking – Carried forward with Code A and JG

AOB Action point: The monthly stats addition of long term outstanding requests will continue. Paul Buckley had raised the idea at an FOI review group.

3. Work update

Code A

Code A discussed her request from [REDACTED] who is a freelance journalist, asking about complaint categories.

Code A

Code A discussed a request from Peter Walsh (AvMA) regarding the streaming process of complaints.

Code A

Code A discussed her hearing security request from [REDACTED]

Code A

Code A discussed the request from [REDACTED] regarding the pre-signing of abortion forms which was passed on to her from [REDACTED]. She also her request from [REDACTED] regarding a doctor who has provided several organisations with different DOB's.

Code A

Code A discussed her request from [REDACTED] regarding abortions.

Code A

Code A discussed his DPA request received from [REDACTED]

Julian

Julian discussed that a requestor involved with the Gosport War Memorial Hospital (GWMH) has come forward to say that she has not received everything that she should have received. We should expect requests similar to this from other involved patients following the announcement of the inquiry into GWMH to be led by Rev'd James Jones.

Information Policy Team (KT) update

- Data strategy
- New Fixed term Information Governance Manager appointed
- UKMED database
- Privacy Impact Assessment re-launch
- New and updated Information Security intranet pages launched
- Improved SFTS launched – Info access SRs pre-approved
- Datasets and publication scheme
- FOI policies, intranet and website content updated
- New web forms for LRMP Download and Revalidation API signup

4. Feedback from Decision Notice meeting (17 June 2014)

Minutes of the meeting on 17 June 2014

Members present

Julian Graves (JG)

Code A

Action points outstanding from previous meetings:

20 June 2012

Action Point 1: *JG to consider a documented procedure for proportionate SAR searches detailing our obligations.*

Carried Forward

14 October 2013

Action Point 2: *JG to take forward with Comms colleagues and consider the best process for producing an updated FOIA refusal where a request is being considered under DPA.*

Carried Forward – [Code A] spoke to [Code A] who confirmed that the proposed workshop was still in her plans

28 April 2014

Action Point 1: *Aggregating the public interest. Procedurally we should record this type of information in a table within a working note recorded at the Internal Review stage. JG to introduce this as a standard part of the process.*

Carried Forward

Action Point 2: Code A *to put together some bullet points for discussion at an IAT meeting regarding the terms of reference of this group.*

Carried forward – Code A to discuss at team meeting due to take place on 24 June 2014.

Issues for consideration at this meeting:

1.19 May 2014 - Google Spain

<http://www.panopticonblog.com/2014/05/19/google-spain-and-the-cjeu-judgment-it-would-probably-like-to-forget/>

This judgment does not have an immediate impact on the GMC as it related specifically to search engines. However it has the potential to increase the traffic of people wanting their personal data removed from our website/records.

2. 23 May 2014 – New FOI exemption – S22A

<http://www.foiman.com/archives/1119>

This new exemption (due to be introduced in autumn 2014) covers a range of information relating to research data. It will potentially cover not only the future publication of the final research paper but also a range of background data.

3. 6 June 2014 – press release from EU Justice Council

http://europa.eu/rapid/press-release_SPEECH-14-431_en.htm

An update on the progress of the EU Data Protection Directive/Regulation. It is now likely to be introduced in 2015.

4. 9 June 2014 – Cyril Smith and the FTT

<http://www.panopticonblog.com/2014/06/09/cyril-smith-and-the-fft/>

This is of interest as it is one of only a few cases where the Tribunal have ordered the disclosure of legal advice and therefore overturned the LPP exemption at S42. The Tribunal found in favour of disclosure on the basis that the documents were of historic value (dating back to the 1990s) as they shed light on the change of social attitudes to the crimes under consideration and they related to a (deceased) public figure.

5. 10 June 2014 – Section 14 in the Court of Appeal

<http://www.panopticonblog.com/2014/06/10/section-14-in-the-court-of-appeal/>

The Court of Appeal have granted permission for Mr Dransfield and Ms Craven to appeal against the S14 Upper Tribunal judgments so we will have to keep a close eye on further developments in this area.

6. 12 June 2014 – Privacy, electronic communications and monetary penalties: new Upper Tribunal decision

<http://www.panopticonblog.com/2014/06/12/privacy-electronic-communications-and-monetary-penalties-new-upper-tribunal-decision/>

The First-Tier Tribunal overturned the first monetary penalty notice issued by the Information Commissioner for breaches of the Privacy and Electronic Communications Regulations 2003. This was the decision in *Niebel v IC* (EA/2012/0260).

The Information Commissioner appealed against that decision. The Upper Tribunal dismissed the Commissioner's appeal *IC v Niebel* GIA 177 2014 and upheld the First-Tier Tribunal's cancellation of the £300,000 penalty imposed for the sending of marketing text messages.

7. 11 June 2014 – ICO disclosure log – response to request

http://ico.org.uk/about_us/how_we_comply/disclosure_log/~media/documents/disclosure_log/IRQ0541687-and-IRQ0541700.pdf

This issue related to an ICO response relating to a complaint about the retention of information by a newspaper archive about a historical criminal conviction. The decision upholds the reasons for retention by the newspaper archive.

8. 13 June 2014 – Section 13 DPA in the High Court: nominal damage plus four-figure distress award

<http://www.panopticonblog.com/2014/06/13/section-13-dpa-in-the-high-court-nominal-damage-plus-four-figure-distress-award/>

This relates to a judgment following a delayed response to an SAR. The Court found that damage had been caused by the delay which then opened up the potential for financial compensation to be awarded under the 'distress' provisions at section 13(2) of the DPA.

5. General update on issues (inc. legal advice, 35B etc..)

35B Process

The process is still on-going. We are currently negotiating with one set of solicitors about their letter before action. JG is to have a meeting with Joanna Farrell and Toni Smerdon about the potential to expand the process to documents other than the expert report e.g. Rule 7 documents or letters of instruction.

 Code A:

Code A: is emailing JG regularly regarding her outstanding request. Berryman's Lace Mawer have issued a letter before action to the GMC and Code A:. They have dropped their concerns regarding the R7 response and a letter from the doctor's employer and are solely focusing on the expert report. The latest argument is that they are happy for the information to be disclosed to her during court proceedings if she withdraws her DPA request. This would then mean that they could put strong restrictions on the further disclosure of the report.

Her complaint was considered at the Investigation Committee (IC) and they decided no warning was required. [Code A] has asked for a Rule 12 review and this is currently being considered.

There was a meeting yesterday where it was agreed that disclosure of the expert report might be made under S35(B) of the Medical Act given that the IC decision is going to be considered for review under Rule 12. Tim PP has provided advice and raised concerns as to whether some internal documents (e.g. CE referral) might contain [Code A] personal data as well as the doctor's.

Disclosure of Historical FtP minutes

At a FOI Review Group meeting last week regarding the new policy on disclosure of FtP sanction information, there was discussion about the disclosure of minutes/information where the outcome was 'no impairment'. This has not been fully considered as part of the policy. This will now be looked in to.

Analytics Team

The team have asked for a reminder about the information 2 days before their target date. There is no set process for setting dates, but currently the average is about 7 days. JG will get in touch to make sure that they are setting FOIA requests as a priority. [Code A] suggested that they also copy the relevant IAO when passing the request round to different teams/senior managers so they can keep up to date with the request.

AOB

[Code A] brought to the team's attention RO's have been told that they have to go through the S35B process to get an expert report. The ELA's share information with the ROs and there may be some cross-over on this point.

Action Point: [Code A] to check ELA/RO manual on what information is being shared.