

Executive Office
Gyle Square
1 South Gyle Crescent
EDINBURGH EH12 9EB
Telephone 0131 275 6000
Fax 0131 275 7530
www.nhsns.org



Ms Sarah Wilkinson
Chief Executive
NHS Digital
1 Trevelyan Square
Boar Lane
Leeds
LS1 6AE

Date 20 April 2020
Your Ref
Our Ref CS/EM/sf/2020-04-20

Enquiries to Susan Ferguson
Extension 7480
Direct Line 0131 275 7480
Email susan.ferguson4@nhs.net

Dear Ms Wilkinson,

1. Covid-19 National Services Scotland Non-Mandatory Request

- 1.1 I am writing on behalf of National Services Scotland to make a Request to the Health and Social Care Information Centre, known as and hereafter referred to in this Request as **NHS Digital**.
- 1.2 This Request is made under section 255(1) and section 256(2) of the Health and Social Care Act 2012¹ (**the 2012 Act**).
- 1.3 This Request is to be known as the Covid-19 National Services Scotland Request 2020 and comes into force on the date signed.

2. Relevant functions and duties

- 2.1 National Services Scotland ("**NSS**") is a Special Health Board operating as per sections 2(f) and 2(j) of the National Health Service (Functions of the Common Services Agency) (Scotland) Order 2008² to provide information, advice and management services in support of the functions of Scottish Ministers, Health Boards and Special Health Boards and per section 37 and section 10(6) of the National Health Service (Scotland) Act 1978³.
- 2.2 NSS will be working closely with Health Protection Scotland, established in 2005, now a division of Public Health Scotland, using existing data sharing agreements between NSS and Public Health Scotland. Health Protection Scotland is the national surveillance centre for communicable diseases and

¹ 2012 c.7

² SSI 2008 No 312, as amended by the National Health Service (Functions of the Common Services Agency) (Scotland) Amendment Order 2014

³ 1978 c.29

health problems associated with environmental hazards, and its relevant duties and functions include:

- 2.2.1 surveillance and monitoring the hazards and exposures affecting people and the impact they have on their health,
- 2.2.2 effective preparation and response to outbreaks and incidents,
- 2.2.3 the collection of accurate and timely data that underpins its activities in protecting the nation's health.

3. Purpose

3.1 The purpose of the request (**Purpose**) is to enable NHS Digital to support:

3.1.1 NSS's response to Covid-19;

3.1.2 NSS's ability to support the various Health Boards, Special Health Boards and other bodies comprising the NHS in Scotland, in connection with their response to Covid-19, by establishing and operating information systems at the request of NSS to collect and analyse data in connection with Covid-19 to:

3.1.2.1 understand Covid-19 and the risks to public health, identify trends in Covid-19 and such risks, and control and prevent the spread of Covid-19 and such risks;

3.1.2.2 identify and understand information about patients or potential patients with or at risk of Covid-19, information about incidents of patient exposure to Covid-19 and the management of patients with or at risk of Covid-19 including: locating, contacting, screening, flagging and monitoring such patients and collecting information about and providing services in relation to testing, diagnosis, self-isolation, fitness to work, treatment, medical and social interventions and recovery from Covid-19;

3.1.2.3 understand information about patient access to NHS Scotland services as a direct or indirect result of Covid-19 and the availability and capacity of those services;

3.1.2.4 monitor and manage the response to Covid-19 by NHS Scotland and the Government and the Scottish Ministers including the provision of information to the public about Covid-19 and its effectiveness and information about capacity, medicines, equipment, supplies, services and the workforce within NHS Scotland services;

3.1.2.5 deliver services to patients, clinicians, the NHS Scotland workforce and the public about and in connection with

Covid-19, including the provision of information, isolation notes and the provision of NHS Scotland services; and

3.1.2.6 for research and planning in relation to Covid-19.

4. **Establishing and operating information systems for the Covid-19 National Services Scotland data collection**

4.1 Under section 255(1) of the 2012 Act, NSS requests that NHS Digital establishes and operates an information system for the collection and analysis of information as requested in writing from NSS from time to time, for Covid-19 Purposes, in the manner provided for below and as agreed by NSS and NHS Digital. Such systems are to be known as the **Covid-19 National Services Scotland Information Systems**.

4.2 Pursuant to sections 255(1) of the 2012 Act, at the request of NSS NHS Digital is requested to analyse information:

4.2.1 collected pursuant to this Request, and/or

4.2.2 obtained by NHS Digital complying with this Request and any other request made by NSS under section 255 or where lawful, a direction under section 254 of the 2012 Act or on any other lawful basis where NHS Digital is a controller of the data.

4.3 The analysis to be carried out by NHS Digital referred to in paragraph 4.2 above, includes analysis by reference or by linkage to information obtained by NHS Digital, as such analysis may be requested by NSS from time to time.

5. **Confidential Information Request**

5.1 This Request may be a confidential information collection request within the terms of section 256(1) of the 2012 Act because the information that may be collected will enable the identity of an individual to be ascertained.

5.2 In relation to each specific request NSS makes under paragraph 4 of this Request that is also a confidential information collection request under section 256(1), NSS will demonstrate to NHS Digital how section 256(2) of the 2012 Act will be met.

5.3 NSS will, when making requests under paragraph 4 above send a request to the NHS Digital COVID-19 Data Service at datarequestcovid19.nhsdigital@nhs.net. The request should identify the data to be collected and describe the required analysis and linkage to be carried out by NHS Digital. Where required, it should also set out how section 256(2) of the 2012 Act will be satisfied as required by paragraph 5.2 above. This should include identifying which of section 256(2)(b) or (c) applies and setting out the relevant statutory provisions which provide

authority for the collection and how the common law duty of confidentiality would be met.

- 5.4 Where NSS is also requesting NHS Digital to disseminate the data to be collected and analysed under paragraph 4 above, NSS will provide details of the statutory authority and legal basis for the dissemination under the common law duty of confidence.
- 5.5 NSS is specifically requesting as part of this Request that NHS Digital to collect, analyse and disseminate the information required to deliver the Isolation Note Service and the COVID-19 Testing Service on the legal basis separately demonstrated to NHS Digital for those services. In relation to the COVID-19 Testing Service, NHS Digital is also requested to collect, analyse and disseminate the data it has previously processed on behalf of NSS as a sub-processor to the Department of Health and Social Care..

6. Requirement for this Request

- 6.1 In accordance with section 255(2) of the 2012 Act, NSS considers that the information which could be obtained by NHS Digital complying with this Request, is information which is necessary or expedient for NSS to have in relation to NSS's exercise of functions or carrying out of activities, in connection with the provision of health care in Scotland and in particular to promote the physical and mental health of the people of Scotland.
- 6.2 In accordance with section 257(4) of the 2012 Act, NSS has consulted with NHS Digital before making this Request.

7. Dissemination

- 7.1 Under section 262(4)(a) of the 2012 Act, NSS requests that by exercising the power it has under s261(4) of the 2012 Act, NHS Digital disseminates the information it collects as a result of its compliance with this Request, to those persons or organisations who reasonably require it for Covid-19 Purposes, and where it would be lawful for NHS Digital to do so, but only to the extent approved in advance by NSS, such approval not to be unreasonably withheld or delayed.
- 7.2 Under section 262(5) of the 2012 Act, NSS requests NHS Digital not to exercise the power conferred by section 261(1) or section 261(4) in relation to the information it has obtained by complying with this request, to disseminate such information to commercial or research organisations without consent from NSS, such consent not to be unreasonably withheld or delayed.
- 7.3 Any information obtained by NHS Digital complying with this Request under section 255 of the Act, may also be disseminated by NHS Digital in accordance with its powers under section 261 of the 2012 Act or with such of its other relevant powers under or by virtue of any other Act.

7.4 Details about all information disseminated by NHS Digital which has been obtained under this Covid-19 Request, will be published in the NHS Digital Data Release Register.

7.5 NHS Digital will update its COVID-19 Transparency Notice to include reference to this Request and the purpose for which information obtained under it may be used or shared.

8. Fees

NSS acknowledges that in accordance with section 257(3) of the 2012 Act, NHS Digital is entitled to charge a reasonable fee in respect of the cost of NHS Digital complying with this Request and subsequent requests made under it. NSS and NHS Digital will agree such fees and the arrangements in relation to payment of such fees separately in relation to each request.

9. Duration

NHS Digital is requested to provide the Covid-19 National Services Scotland Information Systems (**the Requested Function**) until 30 September 2020 (as the same may be extended by agreement of NHS Digital and NSS in writing), unless and until requested in writing by an authorised officer of NSS on reasonable notice to suspend and/or permanently cease the Requested Function at an earlier date.

10. Contact Details

The following named individuals will be the key contacts in relation to this Request and any requests made by NSS under it:

10.1 **NHS Digital:** Magi Nwolie, Principal IG Specialist and Associate Data Protection Officer (DPO) - magi.nwolie@nhs.net

10.2 **NSS:** Eilidh McLaughlin, Associate Director Information Security and Governance – Eilidh.mclaughlin@nhs.net

Yours faithfully



Colin Sinclair, Chief Executive Officer, Authorised Signatory for and on behalf of The Common Services Agency for the Scottish Health Service

Witnessed by:

Print Name Susan Ferguson

Address 1 South Gyle Crescent, Edinburgh, EH12 9EB