

workforce Minimum Data Set Fair Processing Information - Template

Name of organisation:

Under the Health and Social Care Act 2013 this *organisation* (e.g. *GP practice or other*) provides individual level employee information to the workforce Minimum Data Set (wMDS) for primary care and secondary care. This data is collected to enable a detailed understanding of the current workforce, its shape, size, skills, competencies and experience. Having this information supports the wider NHS to identify future workforce requirements to ensure we can meet patients' needs now and in the future.

Information is currently provided through the annual workforce census data collection covering primary and secondary care but this does not capture sufficient detail to allow really effective future workforce planning.

In order to ensure accuracy and reduce duplication some identifying information is required at the start of this process. However, this identifying information is removed from the dataset following the initial automated process so that no one processing the database can identify an individual. The information collected will be analysed and used for workforce planning, accountability, Parliamentary Questions, Freedom of Information requests, and supplied in aggregated reports to GP Practices, Health Education England (HEE), Local Education Training Boards (LETBs), Clinical Commissioning Groups (CCGs) and NHS England.

More information about the workforce Minimum Data Set and its uses is available from Department of Health and Health Education England.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204256/workforce_info_arc_reformed_nhs.pdf

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Advice for Organisations regarding the Data Protection Act (DPA)

Section 254 of the Health and Social Care Act 2012 (HSCA) provides powers for the Secretary of State (SoS)/NHS England/Department of Health (DH) to make a Direction for the collection or analysis of information. Subsequently section 259 of the HSCA then provides the Health and Social Care Information Centre (HSCIC) with the power to require rather than request the information. In relation to collections which were in place pre April 13 before the advent of the HSCA The Health and Social Care Act 2012 (Commencement No.4, Transitional, Savings and Transitory Provisions) Order 2013 sets out that these collections are to be treated as if Directed under s254 of the HSCA. As such HSCIC require the workforce Minimum Data Set (wMDS) information to fulfil its functions under the Direction.

The Information Commissioner's Office (ICO) has confirmed that providing this information required by the HSCIC would not be a breach of the Data Protection Act (DPA) as it is a disclosure required by law and section 35(1) of the DPA provides:

Personal data are exempt from the non-disclosure provisions where the disclosure is required by or under any enactment, by any rule of law or by order of a court.

Section 10 of the DPA would usually provide staff with the right to request the data controller (e.g. your organisation or GP practice) to cease or not to begin processing their information (i.e. passing it onto HSCIC for the wMDS) if it is likely to cause substantial damage or substantial distress. However, in this instance this right is removed, as it is overridden by the legal obligation to provide the information.

The right to object does not apply in this situation as this is a right established by the NHS Constitution applicable to patient information.

Therefore your organisation/GP practice is legally obliged to comply with the provision of the wMDS data to the HSCIC.

Use of the National Insurance Number (NINO)

The use of an individual's National Insurance Number (NINO) is needed because it has been identified as the most reliable unique identifier for an individual. As an interim measure, the NINO will be desirable for the March 2015 collection only.

The NINO is used to produce a pseudonymised workforce identifier at the first stage of the data process. This links information held in the workforce Minimum Data Set. The National Insurance number is not retained once this has been done and so no data can be traced back to an individual after this point.

We are working with partners including the GPC to develop a reliable alternative to the use of the NINO which we will introduce as quickly as we can.

Further information

More information about the workforce Minimum Data Set (wMDS) can be found on the Health and Social Care Information (HSCIC) website at:

<http://www.hscic.gov.uk/wMDS>