

MILLVIEW SURGERY

National Data Opt-out Policy

Document History

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Document Purpose:	National Data Opt-out Policy
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Developed by:	Paul Couldrey – IG Consultant
Policy Sponsor:	Practice Manager
Target Audience:	This policy applies to any person directly employed, contracted, working on behalf of [The Practice] or volunteering with the Practice.
Associated Documents:	All Information Governance Policies and the Information Governance Toolkit, and Data Security and Protections Toolkit 2022/23

Data Opt-Outs – Millview Surgery Policy

Introduction

This policy is intended to identify how Millview Surgery will meet its contractual responsibilities in accordance with the NHS Digital National Data Opt out and your data matters programme, and to comply with national data opt-out policy, you need to put procedures in place to review uses or disclosures of confidential patient information against the [operational policy guidance](#).

The mandatory implementation deadline for the National Data Opt-Out (NDOO) is **31st July 2022**.

Application of the NDOO is aligned with the authorisation for using a patient's data in accordance with the common law duty of confidentiality. It does **not** apply where:

- The individual has consented (including where the consent is implied for the purposes of direct care)
- There is an overriding public interest. More on this can be found in the [NDOO operational policy guidance](#) -
- There is a mandatory legal requirement to use the information (e.g., where data is required by NHS Digital under section 259 of the Health and Social Care Act 2012).
- Data is processed under regulation 3 of the Health Service (Control of Patient Information) Regulations 2002 for purposes of communicable diseases and other threats to public health
- Data has been anonymised in line with the Information Commissioner's Office (ICO) Code of Practice) on Anonymisation or is aggregate or count type data.

In practice this means that, broadly, the NDOO applies to data processed under regulation 5 of the Health Service (Control of Patient Information) Regulations 2002 (also known as section 251 approval) unless there is a specific exemption in place.

The Health Research Authority publishes a register of programmes which are processing data under regulation 5, which can be found [here](#).

NHS Digital will publish a list of all those programmes relying on section 251 approval for processing which are exempt from application of the NDOO shortly.

Information for organisations on applying the NDOO can be found on the NHS Digital website [here](#).

Type 1 opt-out: medical records held at GP practice

Some patients will have a type 1 opt-out registered with their GP practice, which indicates they do not want their confidential patient information leaving the practice for research and planning purposes. These existing type 1 opt-outs will continue to be respected until the Department of Health and Social Care conducts a consultation with the National Data Guardian on their removal.

Type 2 opt-out (National Data Opt-out): information held by NHS Digital

Previously patients could tell the practice if they did not want us, NHS Digital, to share confidential patient information that we collect from across the health and care service for purposes other than individual care. This was called a type 2 opt-out. The [national data opt-out](#) has replaced type 2 opt-outs. GP practices must no longer use the type 2 opt-out codes to record a patient's opt-out choice as they are no longer collected or processed.

The type 2 opt-out was replaced by the national data opt-out. Type 2 opt-outs recorded on or before 11 October 2018 have been automatically converted to national data opt-outs.

Patients who previously had a type 2 opt-out

Where a patient had a type 2 opt-out registered on or before 11 October 2018, this was automatically converted to a national data opt-out and if they were aged 13 or over they were sent a personal letter explaining the change and a handout with more information about the national data opt-out.

Patients can be reassured that their choices will continue to be respected. If they want to change their choice, they can use the national data opt-out service to do this.

Guidance to prevent use of type 2 opt-out codes and identify if they have been used in error

Follow the guidance for the clinical system you use in your GP practice.

[TPP SystemOne: guidance on invalid type 2 codes](#)

[EMIS Web: guidance on invalid type 2 codes](#)

[Vision: guidance on invalid type 2 codes](#)

[Microtest: guidance on invalid type 2 codes](#)