



Bwrdd Iechyd Prifysgol
Hywel Dda
Hywel Dda University
Health Board

Ein cyf/Our ref: FOI/118a/17
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Hafan Derwen
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17 May 2017

request-393890-1d9c1b6e@whatdotheyknow.com

Dear Sir/Madam

Request under Freedom of Information Act 2000

Further to my acknowledgement correspondence of 21 April 2017, I have now undertaken a review of the information you were provided in respect of your Freedom of Information request relating to Data Protection breaches.

Firstly I would like to clarify the internal review process in regard to the Freedom of Information Act 2000 (FOIA). When individuals express dissatisfaction with the outcome of their FOIA request, public authorities should carry out an internal review if they:

- have issued a refusal notice;
- the requester disagreed with its interpretation of the request;
- the requester believes more information is held than has been disclosed; or
- the requester is still waiting for a response and is unhappy with the delay.

Swyddfeydd Corfforaethol, Adeilad Ystwyth,
Hafan Derwen, Parc Dewi Sant, Heol Ffynnon Job,
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Cadeirydd / Chair
Mrs Bernardine Rees OBE

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In your email dated 20 April 2017, you clarified the reason behind your request for a review and advised that you believed that the UHB did not answer the following questions within your request in full:

Therefore I have undertaken a review based on your belief that more information is held than had been disclosed.

To do this, I first needed to determine whether the information requested was 'held' by the Health Board as Section 1(1) FOIA states '*Any person making a request for information to a public authority is entitled —*

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

The main principle behind the FOIA is that everyone has a right of access to official information. It is about information as opposed to actual documentation and the Health Board can only provide information it holds, in other words information which is recorded within its systems.

Your original request received on 23 May 2016 was as follows:-

The intention of this request is to enable understanding of the ways in which NHS patient notes can be accessed, or changed by NHS employees - without the permission to do so.

And what safeguards can be put in place to prevent illegal access, or medical record tampering.

The request therefore concerns this case, already in the public domain:

Ex-nurse fined for illegally accessing confidential records

A former nurse from Carmarthenshire who has been fined for breaching the Data Protection Act, had illegally accessed more than 3,000 confidential medical records, it has emerged.

Elaine Lewis, 63, from Llansteffan, was fined £650 by Llanelli magistrates. She was also ordered to pay costs of £664 and a victim surcharge of £65.

Lewis had worked at Glangwili hospital and was sacked by Hywel Dda University Health Board for breaching patient confidentiality.

The records also included those of work colleagues.

The health board sent letters to all the patients involved last July after the data breach came to light.

It also referred the case to the office of the Information Commissioner's Office (ICO) which brought the prosecution.

Health board chief executive Steve Moore said: "Patient confidentiality is of paramount importance to us and since the initial incident we have put in place a series of measures to strengthen our information governance processes and procedures.

"We know that this has been a distressing case for those affected and we hope that our actions have demonstrated our ongoing commitment to ensuring that we avoid something similar from ever happening again.

"Now that the investigation is complete we will be writing again to each patient directly affected by this matter to apologise and offer further support."

http://www.bbc.co.uk/news/uk-wales-south-west-wales-39197965?ns_mchannel=social&ns_campaign=bbc_wales_news&ns_source=twitter&ns_linkname=wales

I would like to know-

1. What system was in place which allowed the nurse to access patient records?
2. The method of discovery of DPA breaches.
(For example: Were they reported by patients, by audit, or by inbuilt security feature?)
3. The system which replaced the one in which the records were accessed.
4. The 'series of measures' that were put in place to stop DPA breaches occurring again.
5. The occupations of employees who can erase, or change any initial input to patients' records.
(Nb this would exclude the INITIAL additions to patient records by the attending medical staff).

In response to your request the UHB provided answers to each question based on the request being centred on the recent breach of the Data Protection Act (1998) within the UHB. Having undertaken a review of the information provided to you within the original response, the Information Department have provided further explanations below to enhance the information provided in the original response.

Question 1

What system was in place which allowed the nurse to access patient records?

No review requested.

Question 2

The method of discovery of DPA breaches.

(For example: Were they reported by patients, by audit, or by inbuilt security feature?)

Original Response

Senior staff identified a concern at the end of 2015 and instigated the investigation which revealed the extent of the breach. The Health Board then followed its own disciplinary procedure, this involved collecting evidence from witnesses and reviewing the extent of the breach.

Review request

You have not specified the method. HOW was the concern identified to senior staff? If you are confused by the term, please provide original data.

Review response

During an unrelated meeting with the Senior Workforce Advisor and the Senior Nurse Manager, the employee made reference to personal information relating to another Health Board Officer's medical history.

At the end of the meeting during private deliberation, this issue was discussed in detail and the Senior Officers had concerns as to how the individual would have access to this information. It was agreed that it was appropriate to ask the Informatics Team to review the individual's activity on

Myrddin, the electronic patient staff record, to identify if any inappropriate accesses had been made. The initial review highlighted the extent of the breach which subsequently led to a full investigation and the reporting of the incident to the Information Commissioners Office.

Question 3

The system which replaced the one in which the records were accessed.

No review requested.

Question 4

The 'series of measures' that were put in place to stop DPA breaches occurring again

Original response

All members of staff are informed that protecting patient confidentiality is a fundamental aspect of patient care and this message is conveyed when an employee starts their employment with the Health Board, throughout their employment and each time an individual member of staff logs into the patient administration system. It is also a condition of their contract of employment.

Comprehensive and regular training is provided to all employees on the importance of confidentiality and data protection (and there are Information Governance and Data Protection policies, which are based on legislative requirements) are in place. Staff members who need to see electronic hospital patient records are provided with regular training in the PASsystem (Myrddin CiS). Additional training is also provided, which includes detail on what constitutes both appropriate and inappropriate access to patient identifiable information. Regular staff communication updates and reminders on these issues are also conveyed to all staff.

Since January 2016, The Health Board has implemented the National Intelligent Integrated Auditing Solution (NIIAS). This system is licensed for use by all NHS Wales Health Boards and Trusts and helps monitor electronic information systems and flag up potential instances of unauthorised access to patient information, for further investigation.

Review request

As with any organisation. This is a specific request.

Review response

In addition to the information already provided to your original request a further update is detailed below in relation to the measures that the Health Board has put in place since the incident occurred to ensure the Health Board has appropriate organisational and technical measures in place in line with principle 7 of the Data Protection Act 1998.

Following the incident, the National Intelligent Integrated Audit Solution (NIIAS) has been implemented in a phased roll-out giving the Health Board much greater detailed analysis of access to the Patient Administration System. This enables the Health Board to identify and challenge any unusual usage patterns or inappropriate access. This system is licensed for use by all NHS Wales Health Boards and Trusts and monitors electronic information systems and highlights potential instances of unauthorised access to patient information, for further investigation.

A joint letter to all health board offices was sent following the incident from the Medical Director, Director of Nursing, Quality and Patient Experience and the Director of Commissioning, Primary Care, Therapies and Health Sciences reminding them of their responsibilities and professional codes of conduct.

Question 5

The occupations of employees who can erase, or change any initial input to patients records.

(Nb this would exclude the INITIAL additions to patient records by the attending medical staff).

Original response

Only employees with the appropriate approved access are able to make changes or updates to patient records. Access to systems are strictly controlled through the Health Board's policies and procedures. Staff are aware through training and the Health Board's policies and procedures that changes to patient records must only be carried out for legitimate purposes around the provision of patient care.

Review request

Please provide the occupations of employees, as per request.

You have provided general information, instead of the specific information requested. Please refer to request.

Review response

For the sake of clarity and the avoidance of doubt, only on the order of a judge can any erasure or amendment of patient information take place. Under the fourth principle of the Data Protection Act 1998, there is a requirement for personal data to be accurate. Where it is inaccurate, the individual concerned has a right to apply to the court for an order to rectify, block, erase or destroy the inaccurate information. No member of staff within the Health Board is permitted to erase or change patient data, however, they are permitted to add to that data.

In relation to your specific question relating to employees this information is not held by the Health Board. Although each staff member with access to a patient record has a unique identifier e.g. their name and employee number that allows their access to be fully audited, these are not recorded by occupation. We are therefore unable to provide a list of the occupations of employees with access to systems and approval rights to make changes to patient records, however this would include nursing staff, medical staff, allied health professionals, health care support workers, informatics staff, medical secretaries, receptionist, medical records staff and clinic clerks.

If following this review you remain dissatisfied with the outcome of your appeal, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the appeals procedure provided by Hywel Dda Health Board.



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Bwrdd Iechyd Prifysgol
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Hywel Dda University
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The Information Commissioner can be contacted at:

The Information Commissioner's Office
2nd Floor, Churchill House
Churchill Way
Cardiff
CF10 2HH

Yours sincerely

Joanne Wilson
Ysgrifenyddes y Bwrdd /Board Secretary

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