

The National Data Opt Out

a factsheet by Dr Neil Bhatia, GP and Data Protection Officer

NHS Digital launched the National Data Opt Out on 25th May, to coincide with the EU GDPR.

www.nhs.uk/your-nhs-data-matters

What is the National Data Opt Out (NDOO)?

The NDOO is a mechanism by which individuals in England can control, to a limited degree, certain aspects of their confidential medical information and, in particular, what NHS Digital can do with it once in their possession. It's about controlling *your* medical records.

The NDOO only applies to confidential information, that is medical information that can *identify* you, for example by containing your name, DOB, address, NHS number etc.

And the NDOO only applies to uses of your confidential medical information for *secondary purposes*, that is unrelated to, and beyond, the direct medical care that GP surgeries and other healthcare organisations provide you with when you are unwell, or to keep you well.

Secondary purposes include healthcare planning, audit, population analytics, "risk stratification", research, "commissioning", commercial and even political uses.

Nearly always, you are not asked for your permission before your information is used in this way.

The NDOO is not limited to electronic data and so includes paper records. It simply replaces the Type 2 (9Nu4) opt-out that has been in force for some years, and which you were able to express, together with the Type 1 (9Nu0) objection, via your GP surgery.

It is, therefore, nothing new.

If I set, or keep, my NDOO status at "do not allow", what will this mean?

- Confidential medical information obtained by NHS Digital from GP surgeries, hospital trusts, mental health providers and social care, will not be released/disseminated/sold by them in a format that can identify you.
- In due course, the NDOO will prohibit certain data extractions from your GP record, where this involves confidential medical information, and where your permission or consent would not be sought before your data was released (so-called section 251 approval).
- The NDOO will, eventually, prevent confidential medical information *leaving* the National Cancer Registry, certain other disease registries, the Clinical Practice Research Datalink ([CPRD](http://cprd.nhs.uk)); and
- By 2020, all hospitals and other healthcare providers.

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What will the NDOO/Type 1/Type 2 objections NOT do?

- They will **in no way** affect the sharing of information for the purposes of your medical care and treatment, e.g. where information is shared between a GP surgery and a hospital.

It will not stop your GP using the Electronic Referral Service (eRS), the Electronic Prescription Service (EPS), or GP2GP transfers of medical records.

- They will **in no way** affect the National Summary Care Record (SCR). You can opt-out of the SCR via your GP surgery ([and this form](#)).
- They will (or *should*) **in no way** affect any local shared care record project or scheme, such as the Hampshire Health Record, the Great North care Record, the Bolton Care Record etc. (except if such schemes additionally process your uploaded information for secondary purposes).

You can opt-out of your local shared care record scheme via your GP surgery ([and this form](#)).

- They will **in no way** prevent you from registering for [secure online access to your GP record](#) (Patient Online).
- They will **in no way** affect situations where your GP surgery, or other healthcare organisation, is *legally required* to share your information (such as a court order or when mandated under section 259 of the Health and Social Care Act – *but see later*).
- They will **in no way** affect you being invited, when appropriate, for any of the National Screening Programmes, such as cervical/breast/bowel/abdominal aortic aneurysm/diabetic eye screening.

[You can opt-out of these separately](#), if you wish.

- They will **in no way** stop information being *provided* to the National Disease/Cancer Registries (run by Public Health England).

[You can opt-out of this separately](#), if you wish.

- They will **in no way** affect situations where your GP surgery, or any other healthcare organisation, shares data in an anonymised or aggregate (numbers only) format, in other words where that data cannot identify you. Such as "[open data](#)".

- The NDOO will **not stop:**

- [Commercial sales of hospital data \(HES\) by NHS Digital](#)
- Lifelong, linked, individual-level medical histories being disseminated by NHS Digital
- Onwards release of data by non-NHS bodies (once they have been provided with your information by NHS Digital)

Once your data has been copied or released it cannot be recovered.

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What about Research?

The NDOO/Type 1/Type 2 objections will **in no way** prevent you from [taking part in accredited medical research](#), at your GP surgery/local hospital/other health organisation, where you have given your explicit consent to be involved (i.e. you have been asked *first for permission*). They will **in no way** prevent you from:

- [Giving blood](#)
- Joining the [NHS Organ Donor Register](#)
- Signing up to the [Anthony Nolan register](#) to donate your blood stem cells or bone marrow
- Donating your DNA for medical research – *with your permission*
- “[Donating your Data](#)” for medical research - *with your permission*
- Contributing to [UK Biobank](#) - *with your permission*
- Joining the [100K Genomes project](#) - *with your permission*
- Taking part in clinical drug trials
- Joining [dementia research](#)
- “[Crowdsource](#)” [cancer research](#) via games and apps
- [Donating your body](#) to medical science after your death
- [Donating your brain](#) to medical science after your death
- Giving money (in a tax-efficient way) [to a medical charity](#)
- Being contacted by your GP to invite you to take part in any research
- Granting researchers access to your medical records, or information extracted from your medical records - *with your permission*

Will the NDOO stop my confidential GP information being uploaded to NHS Digital in the first place?

No. NHS Digital does not rely upon section 251 approval (any more) for data gathering, preferring instead to make such data collections compulsory under section 259 of the Health and Social Care Act.

However, the existing secondary uses, Type 1 (9Nu0), opt-out that many people have in force on their GP record **will** prohibit data (confidential and, in some cases, de-identified) from being extracted and uploaded from your GP record to NHS Digital in the first place. In addition, the Type 1 opt-out will also prohibit section 251 approved data extractions, for example for “risk stratification”, as well as section 259 extractions.

So how do I maximally limit secondary uses of my medical records, beyond my direct medical care?

- 1) Set your NDOO status to “*do not allow*”, see later for how to do this. Or make sure that you have a **Type 2** (9Nu4) objection in force on your GP record – do this via your GP surgery; **and**

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- 2) Make sure you have a secondary uses, **Type 1** (9Nu0) objection in force on your GP record – do this via your GP surgery
- 3) *Consider* contacting your local hospital trust, mental health provider, or social care organisation (local council) that you use (or have used) and express “the right to object” to the dissemination of confidential information about you for secondary purposes (including to NHS Digital), where it is not legally mandated. You have the right to object where your data might be processed in this way and the organisation concerned is relying on Article 6(1)(e) – Official Authority – as the legal basis under GDPR.

What about preventing NHS Digital releasing, disseminating, or selling anonymised and pseudonymised data about me?

You cannot – directly. And you have no control over why they are doing this, for what purpose(s), and to which organisation they are giving or selling your information to.

But you can *limit* how much information NHS Digital gathers about you from healthcare organisations, by maximally limiting the secondary uses of your medical records, as described above.

They less NHS Digital has about you, the less [it can sell about you](#).

So how do I set, check, or update my National Data Opt Out status?

If you had previously requested a Type 2 objection to be in force, via your GP surgery, then this will have automatically have set your NDOO status to “do not allow”. You will receive a letter from NHS Digital, confirming this, in due course. Any children aged 13yrs or over will receive their own letter as well.

It is not possible to directly view, set or change your NDOO status at your GP surgery, although you can set it *indirectly* by expressing a Type 2 objection to your GP surgery - but only until October 2018.

This will automatically set your NDOO status to “do not allow”.

Anyone aged 13yrs or over can set their NDOO status via an online service at www.nhs.uk/your-nhs-data-matters

Anyone aged 12yrs or younger, or acting on behalf of another individual (i.e. as a proxy, perhaps with lasting power of attorney authority), cannot do this online but will have to ring **0300 303 5678**, or [by printing off a form and posting it](#).

Or, of course, by opting out at your surgery (see the form attached, or use [this one](#).)

OPT OUT FORM – MEDICAL RECORDS

Dear GP Surgery,

I do not wish to allow my medical records to be used for any purpose other than my medical care.

Please ensure my dissent to secondary uses is recorded by whatever means possible, which includes adding the following codes to my GP record:

- Uploading information from my GP record

Type 1 objection: 9Nu0/XaZ89

- The National Data Opt Out

Type 2 objection: 9Nu4/XaaVL

(tick whichever apply)

I understand that I can opt back in to any or all of these at any time in the future.

Name:

Signature:

DOB:

Your name/signature & relationship if applying on behalf of another person (e.g. parent/legal guardian):