

Where did all the governance go? Or, why merely expanding the role and remit of the Confidentiality Advisory Group is insufficient

We note the findings and recommendations of the **Informatics Governance and Accountability Review (IGAR Review)**¹ commissioned by the Permanent Secretary of the Department of Health, completed in late January 2014.

The Review concluded that, despite some progress, “existing governance and accountability mechanisms are not effective and are not sufficiently aligned with the respective responsibilities of the various parties (in particular DH and HSCIC)”, that “number of functions and processes [needed] to be clarified to avoid confusion”, and that “enhanced assurance on the effectiveness of programme delivery and financial management” was required.

The Department of Health has clearly decided it must step in to clear up a tangled mess that failed even to take account of the “statutory accountabilities” of DH and HSCIC. We note that Tim Kelsey will Chair the new **National Information Board (NIB)**. The Review’s description of this new role speaks volumes about what has been happening:

The NIB will be chaired by a new National Information Director, personally appointed by and accountable directly to the DH’s Informatics Accountable Officer. The appointment will be for a fixed term and the postholder will carry out this role alongside but separate from his or her substantive post. This is to make it clear that, while the NIB needs the right leadership from within the system, it is not led or ‘owned’ by one organisation.

The following three sections are an attempt to map where key information functions - governance, security and standards - have ended up over the past 24 months. This has proven difficult due to a lack of clear structure and striking absence of contextual material.

NHS England makes much of being ‘transparent’, but if its version of transparency means merely publishing meeting papers of groups, committees and panels, the relationships of which are unclear and without proper context then we fear no-one - certainly not members of the general public - has any real chance of understanding what is going on. In the case of HSCIC, which does tend to provide better contextual material, medConfidential has been obliged to extract and publish Board papers² that were uploaded to the HSCIC website in compressed ‘.zip’ archived, and therefore unsearchable, format.

1) Information Governance

¹ <http://www.england.nhs.uk/iscg/wp-content/uploads/sites/4/2014/02/ISCG-009-006.pdf>

² <https://medconfidential.org/2014/hscic-board-papers/>

Following the transition to new structures and entities defined in the Health and Social Care Act 2012, various functions of the National Information Governance Board (NIGB) were absorbed into other bodies:

a) The NIGB's Ethics and Confidentiality Committee (ECC) became the **Confidentiality Advisory Group (CAG)** hosted by the Health Research Authority (HRA). CAG advises the Secretary of State on Regulation 5 / Section 251 support for research - and more recently, non-research - use of patient identifiable information.

b) NIGB's Information Governance functions were split, some being passed to a **National Information Governance Committee (NIGC)** of the Care Quality Commission, of which there is barely any mention on their website. A single hard-to find page³ provides links to NIGC's Terms of Reference⁴ and just 3 minutes from the past year. Neither NIGC nor CQC have made any public statement on the care.data, HSCIC or HES fiascos.

c) The rest of NIGB's Information Governance functions seem to have been taken over by **NHS England's 'Information Governance Task Force'**⁵. This task force apparently reports to an **'Information Governance Transition Board'**, the only mention of which we can find on the NHS England website is in a letter from a Chris Outram, Chair of the Information Governance Transition Board, to NHS commissioning organisations in August 2013⁶

2) Information Security

The Department of Health's 2007 'Information Security Management: NHS Code of Practice'⁷ is still in force. Information Security Management *Systems* would appear to be administered by HSCIC. However, on 1st April 2013 NHS England took over Information Security *Policy* for a wide array of bodies and people:

- National Teams;
- Regional Teams;
- Area Teams;

³ <http://www.cqc.org.uk/public/about-us/governance/how-we-are-run>

⁴ http://www.cqc.org.uk/sites/default/files/media/documents/nigc_terms_of_reference.doc - which clearly state, "*The NIGC has been established as an advisory committee of the CQC Board, using CQC's power under paragraph 6(3) of the 2008 Act. **The NIGC has no executive powers.***" The Terms of Reference go on to say, "*When the NIGC is working effectively, the public is able to have confidence that providers of health and social care are managing information, including confidential information correctly.*"

⁵ <http://www.england.nhs.uk/ourwork/tsd/ig/>

⁶ <http://www.england.nhs.uk/wp-content/uploads/2013/08/130808-ig-arr.pdf>

⁷ <http://systems.hscic.gov.uk/infogov/codes/securitycode.pdf>

- All Commissioning Support Units;
- New Improvement Body;
- Leadership Academy;
- Sustainable Development Unit;
- Strategic Clinical Networks;
- Clinical Senates;
- Staff working in or on behalf of NHS England (including contractors, temporary staff, secondees and all permanent employees)⁸

under which compliance will apparently be monitored by the ‘Information Governance Team’, which may or may not mean the Information Governance Task Force or ‘Transition Board’.

3) Information Standards

The functions of the **Information Standards Board for Health and Social Care (ISB)** were absorbed into other bodies on 1st April 2014, such as the **National Information Board (NIB)** - the re-branded and restructured Informatics Services Commissioning Group (ISCG)⁹.

ISB functions were supposed to have been split across an “informatics collection group” and an “informatics partnership group”, but as there is no mention of either on the NHS England site, we assume these were both collapsed into the ISCG. Chaired by Tim Kelsey, ISCG publishes papers but provides very poor contextual information for members of the public, most starkly illustrated by its ‘**Standardisation Committee for Care Information**’¹⁰ which until last week was nothing more than a blank page on the NHS England website.

Even just this brief outline indicates how oversight and governance has become less independent within the last year. In some cases, people responsible for driving forward controversial policies and programmes have taken on steering roles in bodies that might otherwise have provided oversight. The IGAR review indicates an awareness that this was untenable, but the response by all parties thus far has been tentative and inadequate.

medConfidential believes the most trustworthy, acceptable and required solution is to reinstate independent information governance oversight on a statutory basis.

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⁸ <http://www.england.nhs.uk/wp-content/uploads/2013/06/info-sec-1.pdf>

⁹ <http://www.england.nhs.uk/iscg/>

¹⁰ <http://www.england.nhs.uk/iscg/scci/>