Google DeepMind and the Royal Free : "key considerations" in practice

The "Governance and regulatory requirements for decision supporting and *making* software in the NHS and Adult Social Care" guidance contains a checklist for projects.

All answers below are quotes to media outlets from the Google DeepMind project with the Royal Free Hospital that was found to be unlawful.

Data
- What is the purpose of using patient data in this instance?

"Direct care" (business insider)

- What kind of data do you need to use? Is it the minimum dataset required for the proposed use?

"Google said in a statement to New Scientist. "All the identifiable data under this agreement can only ever be used to assist clinicians with direct patient care and can never be used for research."" (new scientist)

- What uses of data under this agreement will be allowed and what is prohibited?

"The information sharing agreement you refer to is not simply a data sharing agreement, but is a legally binding contract that includes clear commitments required for compliance with the Data Protection Act and was prepared specifically in line with relevant ICO guidance," (new scientist)

- What is the legal basis for using the data in this way (under Data Protection law) the common law duty of confidentiality, the NHS Confidentiality Code of Practice and other aspects of privacy and confidentiality law (e.g. are consent arrangements adequate?) need to be considered?

"Direct care" (to the public - business insider)

""DeepMind acting as a data processor, under existing information sharing agreements with the responsible care organisations (in this case the Royal Free Hospitals NHS Trust), and providing existing services on identifiable patient data, will identify and anonymize the relevant records,"" (google to HRA in 2015)

- If you are using an algorithmic approach, what will the data in this agreement be used for: training purposes, testing, production or implementation phases?

"Google said in a statement to New Scientist. "All the identifiable data under this agreement can only ever be used to assist clinicians with direct patient care and can never be used for research."" ([new scientist](#))

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- Who will have access to the data and how will it be protected?

"Our agreement with DeepMind is our standard third-party data sharing agreement, with the trust being the data controller and DeepMind being the data processor," Royal Free said in an earlier statement. ([New scientist](#))

"some files on some of the servers could be modified by "all users on the network"" ([DeepMind's Audit](#))

Engagement
- Can you articulate the benefits to the proposed data use in a way that can be relayed to patients, health professionals and the public?

"Royal Free gave *New Scientist* the following statement: "The trust is sharing patient data for the purpose of direct care only on the basis of implied consent."" ([New scientist](#))

- Can you show examples of other similar projects you have done that have safely and effectively used patient data?

"We've managed to make progress much faster than many people thought possible. We've created an awesome alliance of the UK's best clinicians, best academics, and best technologists to transform the way NHS technology is developed." ... "It's super early. But if we get this right, we can help doctors and nurses spend more time providing care, and less time juggling to-do lists." ([DeepMind to Business Insider](#), February 2016)

"The speed at which the team from DeepMind Health have stepped up to the challenge has been really exciting, and shows the enormous potential for these kinds of collaborations." ([RFH to Business Insider](#), February 2016)

Partnerships
- What value does each party to this use of data expect to derive from the agreement? What value will be added to the NHS through this data use?

"Streams is an entirely new clinical app, and we don't believe it's right to charge the NHS anything other than modest service fees until it shows sustained impact and value." (business insider)

- Do you intend or anticipate any secondary uses of this data beyond what is being proposed (e.g. selling data/analytics on to third parties, secondary observations from data, training etc)?

 "It's really important to say that DeepMind is a British company, and although acquired by Google, operates independently. At no point has any patient data been shared with other Google products or services, or used for commercial purposes." "I think one thing that we do recognise that we could have done better is make sure that the public are really informed about how their data is used." (sky news)

"Minutes from the Royal Free's board meeting on 6 April make the trust's relationship with DeepMind explicit: The board had agreed to enter into a memorandum of understanding with Google DeepMind to form a strategic partnership to develop transformational analytics and artificial intelligence healthcare products building on work currently underway on an acute kidney failure application." (new scientist)

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