

- Where appropriate and in line with the same stringent controls applied to NHS data, NHS Digital may disclose private healthcare information to a range of stakeholders via the Data Access Request Service (DARS)³, such as the Care Quality Commission or NHS England and Improvement. Any such disclosures and their contents will be informed by the views expressed as part of this consultation.

5.3 Data Protection, Privacy and Confidentiality

5.3.1 Data Collection and Processing

- The CMA Order provides a legal requirement for PHIN to collect and process confidential patient information about private patients. This satisfies both Data Protection Legislation and the Common Law Duty of Confidentiality.
- Likewise, a Direction from the Secretary of State under s254 of the Health and Social Care Act 2012 will direct NHS Digital to establish and operate a system for the collection and analysis of information about private patients;
- Processing, by both parties will take place primarily under the provision of Article 6(1)(c) of the General Data Protection Regulation, which provides a legal basis where processing is required by law, including support for data linkage to relevant NHS funded activity to enable measures describing readmissions, mortality, emergency transfers of care and revisions to be processed for both private providers and consultants.
- ICO guidance on how this relates to data subjects' rights is available here <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/>

5.3.2 Data Sharing

During the pilots

- Private healthcare APC data which constitutes confidential patient information will only be shared between NHS Digital and PHIN.

Following successful piloting

³ <https://digital.nhs.uk/services/data-access-request-service-dars>

