

# National Data Opt-Out Compliance

## What is this?

The NDOP is basically the national replacement for the “type 2” opt-out i.e. when the patient wishes to opt out of use of their data for anything except direct care.

We are all required to be compliant by March 2020, so have to evidence we are implementing it in general practice.

An RCN leaflet summarises it well:

**When does the national data opt-out apply?**

- ✓ Data sharing for planning and research purposes**  
Includes data released under Regulation 5 of the Health Service (Control of Patient Information) Regulations 2002 ("section 251 support"). Find out more here: <https://www.hra.nhs.uk/about-us/committees-and-services/confidentiality-advisory-group/why-confidential-patient-information-used/>  
**This identifies you personally**
- ✗ Data shared for an individual's care & treatment**  
e.g. Where data is shared between the health and care professionals in a hospital and in a GP practice.  
**This identifies you personally**
- ✗ Legal requirement / public interest / consent**  
e.g. There is a mandatory legal requirement such as a court order, to protect the greater interest of the general public or there is explicit consent.  
**This identifies you personally**
- ✗ Data is anonymised**  
The data shared is determined to be compliant with the ICO Anonymisation: managing data protection risk code of practice.  
**This does not identify you personally**

Further information about when the national data opt-out does and does not apply is here [nhs.uk/your-nhs-data-matters](https://nhs.uk/your-nhs-data-matters)

**Who might use health and care data?**

Organisations that can request access to data may include:

- NHS organisations
- Local authorities
- University and hospital researchers
- Royal colleges
- Pharmaceutical companies researching new treatments

**Confidential patient information will only be released if it is:**

- used to support the delivery or improvement of health and care services
- required by law

**Access to confidential patient information will not be given to:**

- marketing companies\*
- insurance companies\*

\* unless an individual specifically requests this

You can find out here ([understandingpatientdata.org.uk/companies](https://understandingpatientdata.org.uk/companies)) about how the NHS works in partnership with companies in case you are asked about this.

(<https://digital.nhs.uk/binaries/content/assets/website-assets/services/national-data-opt-out/guidance-for-health-and-care-staff/pocket-guide-for-nurses-and-midwives.pdf>)

## More detailed Info

<https://www.rcgp.org.uk/patientdatachoices> has got great guidance and summarises the other websites on this, it's a good place to go if I've not covered it here.

## Patient Communications

There are posters available from <https://digital.nhs.uk/services/national-data-opt-out/supporting-patients-information-and-resources>

These should be displayed in public areas of surgeries.

## Documentation

You need to review all documents and remove type 2 opt-out from them, replacing with the National Data Opt-out.

## Systems

All providers are updating their systems to implement the opt-out. There's a guide here for EMIS regarding use of the type 2 code after the date, which may be worth checking

<https://digital.nhs.uk/services/national-data-opt-out/information-for-gp-practices/prevent-type-2-opt-out-code-use-in-emis-web>

## Policy

You need new policy in place to cover this. I suggest adding the following to your Data Protection Policy:

### **National Data opt-out for Health and Care Data**

A system of opt-out for use of health and care personal data (including pseudonymised data) has been implemented by the NHS. We are required to comply with this. We will therefore:

- 1) Ensure that all data extracts for non-direct care purposes are filtered to remove patients who have opted out
- 2) Ensure that we make patients aware of their rights.
- 3) Where data is being manually extracted for non-care purposes, we will ensure that records are manually checked for opt-out

## Staff Training

There's some materials on the RCGP site, but I'd suggest that training focus around the RCN leaflet which covers the basics well.

<https://digital.nhs.uk/binaries/content/assets/website-assets/services/national-data-opt-out/guidance-for-health-and-care-staff/pocket-guide-for-nurses-and-midwives.pdf>

## Privacy Notice

You need to update your privacy notices to include the following text:

### **How the NHS and care services use your information**

Whenever you use a health or care service, such as attending Accident & Emergency or using Community Care services, important information about you is collected in a patient record for that service. Collecting this information helps to ensure you get the best possible care and treatment.

The information collected about you when you use these services can also be used and provided to other organisations for purposes beyond your individual care, for instance to help with:

- improving the quality and standards of care provided
- research into the development of new treatments
- preventing illness and diseases
- monitoring safety
- planning services

This may only take place when there is a clear legal basis to use this information. All these uses help to provide better health and care for you, your family and future generations. Confidential patient information about your health and care is **only used** like this where allowed by law.

Most of the time, anonymised data is used for research and planning so that you cannot be identified in which case your confidential patient information isn't needed.

You have a choice about whether you want your confidential patient information to be used in this way. If you are happy with this use of information you do not need to do anything. If you do choose to opt out your confidential patient information will still be used to support your individual care.

To find out more or to register your choice to opt out, please visit [www.nhs.uk/your-nhs-data-matters](http://www.nhs.uk/your-nhs-data-matters). On this web page you will:

- See what is meant by confidential patient information
- Find examples of when confidential patient information is used for individual care and examples of when it is used for purposes beyond individual care
- Find out more about the benefits of sharing data
- Understand more about who uses the data
- Find out how your data is protected
- Be able to access the system to view, set or change your opt-out setting
- Find the contact telephone number if you want to know any more or to set/change your opt-out by phone
- See the situations where the opt-out will not apply

You can also find out more about how patient information is used at:

<https://www.hra.nhs.uk/information-about-patients/> (which covers health and care research); and <https://understandingpatientdata.org.uk/what-you-need-know> (which covers how and why patient information is used, the safeguards and how decisions are made)

You can change your mind about your choice at any time.

Data being used or shared for purposes beyond individual care does not include your data being shared with insurance companies or used for marketing purposes and data would only be used in this way with your specific agreement.

Health and care organisations have until 2020 to put systems and processes in place so they can be compliant with the national data opt-out and apply your choice to any confidential patient information they use or share for purposes beyond your individual care. Our organisation is compliant with the national data opt-out policy.