

Future Healthcare 2018

GDPR in the digital age of healthcare

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GDPR in the digital age of healthcare

- You can't avoid the GDPR
 - May 25 (just over 10 weeks away)
- Evolution not revolution
- GDPR preparations for healthcare providers and technology suppliers
- Three key examples of technology change in healthcare where GDPR has a particular effect

1. Changing roles of healthcare providers and technology suppliers

- How it was
 - Patient relationship with the healthcare provider
 - Technology supplier provides services to healthcare provider – may be invisible to patient; likely to be large corporates
- How it is and will be
 - Personal/consumer digital health – patients direct relationship with technology suppliers; distinction between healthcare provider and technology supplier breaking down
 - Proliferation of suppliers (large and small) providing digital healthcare solutions to patients – technology companies, healthcare providers, charities

GDPR impact 1

- Who is the data controller?
 - Broad range of obligations
 - Transparency – privacy notices, policies, registration terms
 - Legal basis for processing – may not be health professionals

GDPR impact 2

- o Processors now have obligations
 - Security
 - Record keeping and governance – data breaches, DPO role
 - International transfers

GDPR impact 3

- Arrangements between controllers and processors
 - More detailed contracts
 - Allocation of liability for breaches

2. Opportunities of big data/data analytics

- Improving care – diagnosis, population health analysis
- Market differentiator for healthcare providers
- Opportunities for new products

GDPR impact 1

- Identifying a legal basis for processing health data
 - Necessary for the purpose of medical diagnosis, the provision of health care or treatment or management of health or social care?
 - Similar to direct care test
 - Necessary for scientific research?
 - Consent?
- Data minimisation principle – identifiable no longer than necessary for the purpose
- Developing and testing analytics products
- Population health – direct care/necessary for the provision of health care?

GDPR impact 2

- Transparency
 - Additional information required under the GDPR
 - Privacy notices and policies; registration forms

3. Changing location of data – wearables, IoT, cloud hosting

- Increasing use of wearables and other portable IoT devices to collect and analyse health data
- Increasing use of cloud hosted solutions for both portable devices and healthcare providers' own systems

GDPR impact 1

- Security requirements
 - Still needs to be “appropriate”
 - Pseudonymisation?
 - Encryption?

GDPR impact 2

- o Governance
 - Increased need for audit trail
 - Privacy by design
 - Privacy impact assessments

GDPR impact 3

- Data transfer
 - Between technology suppliers (apps, devices, hosting), healthcare providers and others
 - Contract terms
 - International transfers – finding a legal basis for transfers out of the European Economic Area

GDPR dos and don'ts

- Don't

- Fear it – evolution not revolution
- Panic – clear steps to prepare
- Ignore it – 10 weeks to go

- Do

- Plan – existing processes and new technologies
- Get help – public resources (ICO, A29WP), advice
 - AIHO - Data Protection and the GDPR Key Principles

Questions?



thank you



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