

Meeting of
Lanarkshire NHS Board
24 September 2008

Lanarkshire NHS Board
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**SUBJECT: PERSON IDENTIFIABLE DATA ON THE FORMER LAW
HOSPITAL SITE**

1. PURPOSE

To present to the NHS Board the final Report on the Investigation Into the Presence of Person Identifiable data on the former Law Hospital Site.

2. CONTENT AND SUMMARY OF KEY ISSUES

- 2.1 Following the discovery of Person Identifiable Data (PID) on the former Law Hospital site on Thursday 10 July 2008, a thorough physical check of all buildings on the site was conducted over the next 5 days and any paper, Person Identifiable or otherwise, was removed from the site. An immediate investigation was launched, led by the Director for Strategic Implementation, Planning and Performance, and the draft report of the investigation, including explicit recommendations aimed at avoiding any recurrence, was presented to Board Members on 30 July 2008. At that time, comment on the draft report was awaited from the Scottish Government Health Department, the Office of the Information Commissioner for Scotland and NHS Quality Improvement Scotland who undertook an Improvement Review into the presence of Patient Identifiable Data at Strathmartine Hospital.
- 2.2 The Scottish Government Health Department has recognised that prompt action was taken once data was discovered. It has impressed upon the Board the requirement to implement the recommendations arising from the investigation without delay, having regard to any material comment from the Office of the Information Commissioner and NHS Quality Improvement Scotland.
- 2.3 The Assistant Information Commissioner has confirmed that he is content with the action taken by the Board in response to the discovery of Person Identifiable Data on the former Law Hospital site. He has confirmed the intention to ask NHS Lanarkshire to give a Form of Undertaking to the Commissioner's Office regarding future

procedures. An Undertaking, being an informal resolution procedure, does not have the same force as an Enforcement Notice (which the Information Commissioner's Office can issue). Forms of Undertaking are made public through posting on the Commissioner's Website. In essence, a Form of Undertaking is a commitment by Lanarkshire NHS Board to fulfil its duty as a "Data Controller" to comply with the Data Protection principles in relation to all personal data in respect of which it is a Data Controller. The Office of the Information Commissioner will forward the Form of Undertaking for completion by the end of September. We currently await confirmation from the Commissioner's Office about whether we can dispose of the Patient Identifiable Data, other than the 30 records for blood matching which will be integrated with existing Laboratory records.

- 2.4 In a response to the draft report, the Director of Patient Safety and Performance Assessment at NHS Quality Improvement Scotland confirmed that many of the investigation findings mirror exactly the conclusions following the Improvement Review at Strathmartine Hospital. She made several observations on the report, most of which were presentational and have been addressed in the final version. The most material comments were about the need to test the incident against the principles of the Data Protection Act, and to invest further in ensuring that Information Governance is accorded sufficient priority at all levels throughout the organisation.
- 2.5 The report has been expanded, accordingly, at Section 7 to describe a test of the incident against the principles of the Data Protection Act. The NHS QIS observation about the need to review and raise the profile of Information Governance arrangements is acknowledged. The NHS Board Agenda specifically addresses this issue, and includes a commitment to bring to the NHS Board in October a robust Information Governance Action Plan.
- 2.6 Work will be taken forward, led by the Director for Strategic Implementation, Planning and Performance, to implement the recommendations arising from the investigation, including the finalisation of revised operational procedures on Records Management, which will be approved by the Information Governance Committee.
- 2.7 The report on the NHS QIS Improvement Review of Strathmartine Hospital has not yet been published. When it is available, its findings and recommendations will be carefully reviewed to ensure that any of material relevance to NHS Lanarkshire are picked up in the implementation of the recommendations arising from the investigation of the Law Hospital incident.

3. RECOMMENDATIONS

Board Members are asked to note and endorse the final report of the investigation into the presence of Person Identifiable Data on the former Law Hospital site, to agree the proposed way forward and to receive an Information Governance Action Plan in October.

4. FURTHER INFORMATION

Should any Board Member wish any further information or clarification of any issues in advance of the Board Meeting, please contact Neil Agnew, Board Secretary, Telephone: 01698 206313.

Ian A Ross
Director for Strategic Implementation,
Planning and Performance

17 September 2008