

Guidance on: **The interpretation of commitment 12 in the NHS Care Record Guarantee for England**

Date: 4 February 2009

'We will take action when someone deliberately accessed records about you without permission or good reason. This can include disciplinary action, ending a contract, firing an employee or bringing criminal charges.'

This applies to both paper and electronic records. The intention is to assure patients that confidentiality is being taken seriously and that there are significant consequences, which are enforced, for inappropriate access of records. This is also in line with the recent directions from the Chief Executive of the NHS.

We are not suggesting that organisations should analyse every single access to records. Rather that they should have a system in place which allows them to monitor access to records and that where they have identified access which appears inappropriate this is investigated and the appropriate action taken. This is an audit and like all audits I would expect it to be based on some form of sampling, the effort put into the audit and the size of the sample being related to risk.

It is not the intention of the Care Record Guarantee to place unreasonable demands on NHS organisations. However, the NIGB would be rightly critical of any organisation which did nothing to determine whether inappropriate access to records was taking place and equally would be worried about the use of resources if, in the absence of really major concerns about inappropriate access, an organisation was to review every single record access. The sensible position sits between these two. Individual organisations will have to determine for themselves where they sit on this continuum and be able to justify this in the same way that they justify the attention that they give to any other information governance issue.