



January 2013

AURE position paper – reform of the data protection Regulation

1. This position paper has been produced by the [Alliance of UK Health Regulators on Europe](#) (AURE) in response to the European Commission's proposal to amend the Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data ([General Data Protection Regulation](#)).
2. AURE brings together 9 health and social care regulators in the United Kingdom to work collaboratively on European issues affecting patient and client safety. As regulators, our purpose is to protect and promote patient safety through effective regulation and ensuring proper standards in the practice of health and social care.
3. As regulators for healthcare professionals, we believe that the fundamental right to the protection of personal data should not impede measures that allow regulatory authorities from maintaining and sharing fitness to practise information about healthcare professionals to protect patients and clients. In this context, we welcome that the EU framework for data protection continues to provide for these safeguards through Articles 6 and 21 of the new Regulation.
4. This paper focuses on the following issues of importance to safe and effective healthcare professional regulation:
 - Exemptions to the right to be forgotten;
 - Consistency between EU data protection rules and the proposal to amend [Directive 2005/36/EC on the mutual recognition of professional qualifications](#); and
 - The processing of personal data for scientific research purposes.
5. This position paper should be considered alongside our previous [response](#) to the public consultation in January 2011.

Exemptions to the right to be forgotten

6. AURE members have statutory responsibilities to maintain registers of health and social care professionals who are safe and fit to practise in the UK. In light of public interest and patient safety, we may also hold information concerning past and present registration, including professionals no longer on the register for administrative or fitness to practise reasons.



7. We support the view that personal data should only be retained for a defined and proportionate time period but welcome the derogations outlined in Article 6, 17(3) and 21 that would allow healthcare professional regulators to retain relevant information about professionals on their registers for the sake of protecting the public. It is essential these derogations are maintained so that patients can be confident that registered healthcare professionals are fit to practise while ensuring public trust in the role of healthcare regulators.

Consistency between EU data protection rules and the proposal to amend Directive 2005/36/EC on the mutual recognition of professional qualifications

8. The proposal to amend the professional qualifications Directive 2005/36/EC introduces a fitness to practise alert mechanism, which would require healthcare competent authorities to proactively exchange data relating to restrictions on a professionals' licence to practise. We consider this a vital tool for the protection of patient safety and one that should include all healthcare professionals, irrespective of whether they are sectoral or general system professions as alerts about all healthcare professionals should be treated with the same urgency.

9. Most European healthcare professionals are highly competent individuals who make an important contribution to the health and well-being of European citizens. However, if information is not shared efficiently and effectively between regulators a professional could be suspended from practice in one Member State while continuing to practise in another – such a situation could pose a serious risk to patient safety. The alert mechanism will play an important role in providing reassurance to regulators, patients and employers that professionals on their register are fit and safe to practise, irrespective of where in the European Economic Area they are practising.

10. According to Article 21 of the regulation, EU data protection rules would not preclude regulators from exchanging fitness to practise information but at the same time it would not require it. Therefore, we believe it is essential that the data protection Regulation supports proactive information sharing, and the new proposal for an alert mechanism, rather than constrain it. AURE calls for consistency between these two legislative proposals to ensure the new mechanism proposed in Directive 2005/36/EC is not undermined.

Processing of personal data for scientific research purposes

11. To help inform policy making and health workforce planning, AURE members collate and publish data relating to registered healthcare professionals. Article 83 of the draft Regulation provides that personal data may only be processed for historical, statistical or



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AURE briefing

scientific research purposes if “these purposes cannot be otherwise fulfilled by processing data which does not permit or not any longer permit the identification of the data subject”.

12. We would welcome clarification regarding the definition of “cannot be otherwise fulfilled”, as we understand this to mean a stricter test than is currently applied, and if the Regulation increases this threshold, this will have a significant impact on the kind of research AURE members can undertake, which is particularly important in the context of rapid progress in the fields of science and medicine.

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