

# In pursuit of balance: unlocking the power of data whilst preserving public trust

Since its foundation in 1948, the NHS has looked after the population of this country. In doing so, it has amassed comprehensive cradle-to-grave information about tens of millions of us, whatever our social and economic circumstances or ethnic origin. This store of confidential data is a national treasure – our shared national treasure – that must never be compromised or treated carelessly, as its collection is founded on our trust.

The value of our data will only be realised if it can be organised in such a way that the NHS is able to use it well to improve treatments, services and ultimately our health and care. Sealing this precious asset in a vault where it cannot be used would render it worthless. However, making the data available in ways that damage patients' trust would be counterproductive. If people lose their trust in how the health and care system handles their confidential data things will fall apart, and plans for data use will not hold.

Welcome to the world of balanced judgment. The hunt is on for a way to unlock the treasure of our data without damaging our trust. These objectives are of equal value. As National Data Guardian, I have set my [vision, mission and strategic objectives](#) towards this end.

The importance of achieving the right balance is coming into sharper focus now, as NHS England begins asking companies to tender to provide a federated data platform. This 'ecosystem of technologies and services' will provide real-time, reliable insights to those making decisions about how care is planned and delivered.

I strongly agree with the aims and ambitions of NHS England's federated data platform (FDP) programme. Improving timely, meaningful access to high-quality data, visualised in a way that supports more informed decision-making by those empowered to use it, is key to improving health and care access, outcomes, and experience for all. However, this data programme must avoid common pitfalls around trust and transparency that have frustrated previous initiatives in this area. More on that later.

Public trust can only be earned through a commitment to honesty and transparency. There must be no surprises for people about how their private information is being used. To help the programme to get it right, my team, panel of advisors and I have provided, and continue to provide, advice in several areas around these themes. I have made clear that NHS England needs to allow sufficient time to listen to patients and professionals and then adapt plans according to what it hears. I have advised that the programme must be transparent and always strive to provide clear, easy-to-understand explanations of the platform, what data it will use, how it will use it, the

benefits of the programme, and, just as importantly, the risks. Being open about risks and their mitigations provides an opportunity to meaningfully engage the public and build confidence in the system. This information should be publicly available, easy to find, and accessible. The programme has subsequently assured me that it will be carrying out research with the public to determine what information people want and need about the programme. This will inform its communications and engagement plans, which it has committed to share with me for review.

I have advised the programme to develop comprehensive information governance guidance, clear governance frameworks and security measures for the platform. I expect that it will continue to engage with me on these matters. I have also counselled that the programme should remain mindful of the NHS's [core values](#), and how the track record and values demonstrated by any organisations procured to deliver on a large-scale data programme align with them. As NDG, my role is to provide advice and guidance. Ultimately, decisions around the FDP's procurement rest with the Department of Health and Social Care and NHS England. To date, I'm pleased to say those running the programme have listened and responded thoughtfully to my advice.

Just as my predecessor, Dame Fiona Caldicott, sought to do with the care.data programme, I shall continue to stress the importance of public and professional confidence for the FDP programme's success. And as a psychiatrist (like Dame Fiona), I'd also stress the importance of learning lessons from history to avoid repeating mistakes. The care.data programme failed when it could not provide satisfactory answers to a series of questions and tests set by Dame Fiona, including key ones around transparency and the clarity of policy and communications. I hope the NHS will keep this lesson in mind and engage with these critical themes from the outset, so that the FDP programme succeeds in inspiring confidence and support where care.data did not. In this time of crisis for the NHS, the programme's work to support better health and care for all through the better use of our data is too important an ambition to fail.

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## [AAIB Report: Piper PA-28R-200-2 \(G-EGVA\), Disappeared from radar over the English Channel](#)

News story

Disappearance of a Piper PA-28R-200-2 (G-EGVA) approximately 20 nm west of Le Touquet in France on 2 April 2022.



The aircraft was one of seven taking part in a club 'fly-out' from Wellesbourne Mountford Aerodrome to Le Touquet in France. A line of highly convective cloud was forecast on the intended route and as G-EGVA approached the middle of the English Channel, one of its two occupants reported to London Information that they were in cloud. Neither of the pilots were qualified to fly in cloud and shortly after this transmission, the aircraft disappeared from radar. An extensive search of the area was coordinated by the UK and French Aeronautical Rescue Coordination Centres, but neither the aircraft nor the two occupants could be found.

It is likely that control of the aircraft was lost when it entered the convective cloud and that it was substantially damaged on impact with the sea. The CAA has published an [animation](#) and [podcast](#) reinforcing the safety messages highlighted in the [AAIB Special Bulletin S1/2022](#).

[Read the report.](#)

Media enquiries call: 01932 440015 or 07814 812293

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Published 17 November 2022

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## [Consultation on allowing schools early exit from software contracts](#)

Education Software Solutions Limited (ESS) is the largest provider of school management information system (MIS) software in England and Wales. In the UK, most state schools are required to have an MIS in place to handle information on staff and students including for handling attendance and safeguarding.

In April 2022, the Competition and Markets Authority (CMA) opened an investigation into whether ESS' conduct was anti-competitive by effectively

limiting schools' ability to choose an MIS software provider and excluding its competitors. The CMA was concerned about ESS providing that its customers – schools in England and Wales – must move to three-year contracts, from their previous one-year contracts, without giving them sufficient time to make alternative arrangements with other software providers. The CMA was concerned that these changes reduced schools' choice of MIS software provider and made it difficult for other providers to compete with ESS to win business.

ESS has offered to give legally binding assurances, known as commitments, which would enable certain schools – broadly those schools which had been given insufficient time to switch providers – to apply to an independent adjudicator for a new break clause to allow them to escape their current three-year contract with ESS and choose alternative providers.

If the CMA accepts commitments, that does not itself entail a finding that the business giving the commitments has breached competition law, and in this case the CMA notes that ESS maintains that its behaviour was not anti-competitive.

The CMA considers that the proposed commitments address its competition concerns by giving affected schools the choice to exit their current three-year contract and switch to another MIS supplier, facilitating competition.

It is now inviting comments from schools, and others likely to be affected by the commitments, including on the eligibility criteria to apply for the new break clause and on any matters that may affect the effective implementation of the proposed commitments – for example, on the application form to be used. If accepted by the CMA, the commitments would bring the investigation to an end.

Further details about how to respond to this consultation are set out in the notice of the proposed commitments issued by the CMA today. Comments on the proposed commitments should be received by no later than 5.00pm on 8 December 2022.

Further details about the CMA's investigation can be found on the [case page](#).

## Notes for editors

1. For media enquiries, contact the CMA press office on 020 3738 6460 or [press@cma.gov.uk](mailto:press@cma.gov.uk).
2. All enquiries from the general public should be directed to the CMA's General Enquiries team on [general.enquiries@cma.gov.uk](mailto:general.enquiries@cma.gov.uk) or 020 3738 6000.
3. The CMA is the UK's primary competition and consumer authority.
4. The competition legislation relevant to the CMA's investigation is the Competition Act 1998 (the Act). The Chapter II prohibition in the Act prohibits any conduct on the part of one or more undertakings which amounts to the abuse of a dominant position in a market, and which may affect trade within the UK.
5. On 26 April 2022, the CMA launched an investigation into a suspected breach of competition law – a suspected abuse of dominance – in the

supply of MIS software in the UK by ESS.

6. Where the CMA has begun an investigation under the Act, it may accept commitments for the purposes of addressing the competition concerns it has identified. If the CMA proposes to accept the commitments, the CMA will consult third parties who might be affected by these commitments and allow them an opportunity to give their views to the CMA. The CMA will consider any such views before deciding finally whether or not to accept the commitments.
7. Formal acceptance of commitments would result in the CMA ending its investigation and not proceeding to any decision on whether ESS has infringed the Act.
8. The CMA has also considered whether or not to grant interim measures, under section 35 of the Act, in relation to this case. Formally accepting commitments, bringing the concern to an end, would make it unnecessary to make any interim measures directions in this case.

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## [Report 14/2022: Fatal collision between a tram and a pedestrian at Cleveleys](#)

Press release

RAIB has today released its report on a fatal collision between a tram and a pedestrian at Cleveleys, Lancashire, 24 November 2021.



The pedestrian crossing at which the collision took place

[R142022\\_221117\\_Cleveleys](#)

PDF, 7.37 MB, 38 pages

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## **Summary**

At 18:11 hrs on Wednesday 24 November 2021, a pedestrian who was crossing the Blackpool tramway near Anchorsholme Park, in Cleveleys, was struck by a tram. The pedestrian, who lived locally, was fatally injured as a result of the collision. The tram involved was travelling at 32 km/h (20 mph) on a southbound journey from Fleetwood Ferry towards Starr Gate.

It was dark at the time of the accident. The pedestrian was crossing at an uncontrolled crossing which passes over both tracks of the tramway and which is situated immediately south of a road junction controlled by traffic signals.

RAIB's investigation concluded that the tram driver was unaware of the presence of the pedestrian until it was too late to take action to prevent the collision. The pedestrian who was struck was seemingly unaware of the tram's speed and proximity to him in the seconds before the collision. The layout and lighting arrangements at the crossing were factors in the accident, along with the probable distraction of the tram driver as the tram approached the crossing. RAIB concluded that the pedestrian's possible beliefs about the tram's speed and how conspicuous he was to other road users may also have been factors.

## **Recommendations**

RAIB has made three recommendations. The first is that Blackpool Transport Services should review its process for identifying and assessing the risks arising from tramway activities. The second is that Blackpool Council should review its process for identifying and assessing the risks arising from tramway activities, adopting and embedding best light rail industry practice as it does so. The third is that Blackpool Council should review its assurance and audit process of Blackpool Transport Services.

RAIB also identified two learning points. The first reminds duty holders of the value of having clear and well understood processes for staff to report near misses. The second reminds tram operators of the importance of having arrangements in place to periodically check the alignment of tram headlights.

## **Notes to editors**

1. The sole purpose of RAIB investigations is to prevent future accidents and incidents and improve railway safety. RAIB does not establish blame, liability or carry out prosecutions.
2. RAIB operates, as far as possible, in an open and transparent manner.

While our investigations are completely independent of the railway industry, we do maintain close liaison with railway companies and if we discover matters that may affect the safety of the railway, we make sure that information about them is circulated to the right people as soon as possible, and certainly long before publication of our final report.

3. For media enquiries, please call 01932 440015.

**Newsdate: 17 November 2022**

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Published 17 November 2022

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## [Russia is knowingly trying to gain military advantage by creating desperation: UK statement at the Security Council](#)

Thank you President. And thank you to USG DiCarlo for your briefing.

I would like to start by offering our sympathies and condolences to the Polish people and the families of those injured and killed in yesterday's incident.

While we await the outcome of the investigation, we should be clear that this is a tragedy that indisputably stems from Russia's illegal and unjustified invasion, and its inhumane assault on civilians across Ukraine.

Yesterday, as President Zelenskyy set out to the G20 his 10 point plan for peace in Ukraine, Ukrainian civilians were facing the largest barrage of Russian missile and drone strikes since the first week of the war. We extend our condolences to the Ukrainian people and families of those injured in these attacks.

Russia's systematic attacks on Ukraine's critical national infrastructure have left millions without electricity, heating, water, medicine and food as temperatures start to drop below zero.

And more than that, we've heard today from the UN detailed reports of civilian deaths, sexual violence, and forced deportation of children. Russia

is knowingly trying to gain military advantage by creating desperation. Attacks of this kind may violate International Humanitarian Law and are in any event, deeply inhumane.

President, on Monday the General Assembly adopted a resolution on an international mechanism for reparations for damage, loss and injury arising from Russia's internationally wrongful acts against Ukraine. This was an important first step towards justice for Ukraine.

President, we are in no doubt that Ukraine will prevail in the face of Russia's aggression. The liberation of Kherson shows the strength, courage and determination of the Ukrainian people to defend their right to sovereign equality and territorial integrity guaranteed under the UN Charter.

The UK will continue to stand by the Ukrainian people.

While the war is ongoing, we must continue also to manage its wider effects as best we can. That is why we strongly support the Black Sea Green Initiative. It has been vital in helping alleviate the serious risks of food insecurity in the world, and we strongly support the UN in the efforts to renew it.

President, fundamentally, this war is the result of unilateral action on the part of the Russian Federation. The path forward is therefore simple: Russia needs to cease hostilities, withdraw from within Ukraine's internationally recognised borders, and commit to a path of dialogue.

Thank you.