

Privacy as a Ruse? Reframing legal and ethical challenges to improve engagement with quality improvement using health data

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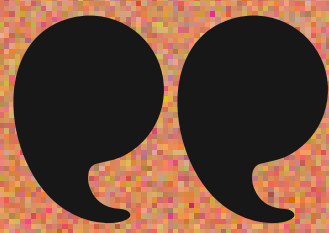
BACKGROUND

Health professionals are increasingly expected to use health data for quality improvement as data systems become more sophisticated. While this expectation is increasingly codified in professional standards, new mandates have been met with growing concerns about medico-legal risks and ethical issues such as transparency, privilege and disclosure.

The objective of this project is to understand stakeholder perspectives towards the implementation of evidence-based improvements from an ethical and legal lens.

METHODS

- Semi-structured qualitative interviews via Teams/Zoom
- Stakeholders incl. health professionals, administrators, academics, informaticians representatives from professional associations and regulatory bodies etc.
- Thematic analysis (Braun & Clarke, 2009)
 - Line by line coding of the first three transcripts
 - Disagreements resolved by consensus
 - Grouping codes by sub-themes and themes until data saturation had been reached (i.e., no new codes emerged)



fellows just said that the restrictions and emphasis on privacy is so strong that I couldn't have a peer review discussion with one other... Even if it's de-identified because that would be breaking the confidentiality and privacy issues of that case.

P1, Health Administrator

by simply pretending that you failed to instigate the process, can be a better option than admitting that you tried and failed.

P3, Clinician/Informatician

But we don't go looking through windows to make sure people are doing it. We need other people to tell us if people are not doing it.

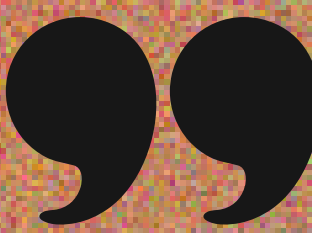
P9, National Health Professional Regulator

And unless people feel psychologically safe, they won't actually even admit or show that they've made an error.

P13, Clinician/Academic

the practitioner is the one with the fundamental responsibility to meet the standard, and that's the case for all of our standards.

P9, National Health Professional Regulator



NEXT STEPS

- 1 Normalise use of performance data through peer supervision and mentoring
- 2 Build trust in management through open dialogue and flattened hierarchies.
- 3 Look for patterns and **ALWAYS** contextualise information with clinical input
- 4 Apply the principles of natural justice, namely an opportunity to hear and respond to the evidence.
- 5 Develop a regulatory framework to scaffold and standardise governance, policies and procedures.

RESULTS

14 interviews with key stakeholders. Three fundamental challenges emerged in the preliminary analysis:



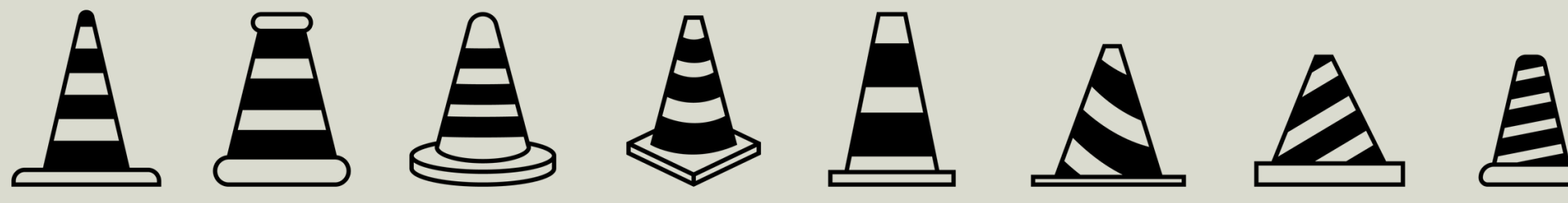
Don't drive looking in the rear view mirror.

All health stakeholders are committed to quality improvement and performance data is a means to this end. Weaponising this tool for performance management was strongly discouraged with fears of disproportionate surveillance and punishment, and the subsequent impact on psychological safety.



A wicked problem

No interviewee was motivated to memorialise their reflections in writing despite accredited platforms being developed for this sole purpose. This was largely driven by two factors: (1) limited usefulness and; (2) fear of misappropriation in media, political narratives and legal proceedings.



Kicking the can down the road.

There appears to be no positive duty to ensure performance data drives improvement or weeds out consistent outliers who pose a risk to public safety. Health administrators, professional associations and regulators were uncomfortable reviewing performance data before a complaint was made.

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More info

