

Dear

FREEDOM OF INFORMATION REVIEW – PALANTIR TECHNOLOGIES

I write in response to your request for review of NHS Lothian's response to your Freedom of Information request about Palantir Technologies.

Original Request and Response:

Question:

1. Has NHS Lothian had any contact, meetings, correspondence, or discussions with Palantir Technologies Inc., or any of its subsidiaries or associated companies, between 1 January 2020 and the date of this request? If so, please provide dates, attendees, and subject matter.

Answer:

No.

Question:

2. Has NHS Lothian has been approached by NHS England, the Department of Health and Social Care, or any UK Government body regarding adoption of the NHS England Federated Data Platform operated by Palantir Technologies.

Answer:

No.

Question:

3. Is any patient data held by NHS Lothian currently accessible via, or has been shared with, the NHS England Federated Data Platform or any Palantir-operated system.

Answer:

No.

Question:

4. Has NHS Lothian has conducted or does it intend to conduct a Data Protection Impact Assessment in relation to any actual or proposed use of Palantir Technologies software or services.

Answer:

NHS Lothian has undertaken a Data Protection Impact Assessment (DPIA) in relation to the potential future use of Palantir Technologies software or services. This DPIA is not yet finalised or approved. There is currently no confirmed or agreed proposal to use this software.

Review Request:

I am grateful for the response provided. However, I have identified what appears to be a material internal contradiction between two of the answers given, and I request that this be reviewed and reconciled.

The contradiction in response to Question 1, NHS Lothian states that it has had no contact, meetings, correspondence, or discussions with Palantir Technologies Inc., or any of its subsidiaries or associated companies, between 1 January 2020 and the date of the request.

In response to Question 4, NHS Lothian confirms that it has conducted a Data Protection Impact Assessment (DPIA) in relation to the potential future use of Palantir Technologies software or services.

These two answers are difficult to reconcile. A DPIA conducted in relation to a specific named commercial product would ordinarily require some form of contact with that company or its representatives, whether direct or through a third party, in order to understand the nature of the software, how data would be processed, what data flows would be involved, and what risks the assessment should address. It is not clear how a meaningful and specific DPIA could be scoped and conducted in the complete absence of any contact, correspondence, or discussions with Palantir Technologies or its associated companies.

What I am asking for I request that NHS Lothian review its response to Question 1 in light of its answer to Question 4, and provide:

A clear explanation of how the DPIA in relation to Palantir Technologies software or services was scoped and conducted without any contact, meetings, correspondence, or discussions with Palantir Technologies Inc. or any of its subsidiaries or associated companies.

Clarification of whether any contact, correspondence, or discussions took place with any third party acting on behalf of Palantir Technologies, or through any intermediary such as a procurement framework, shared services body, or another NHS organisation, that may not have been captured by the original answer to Question 1. A copy of the DPIA itself, or if

NHS Lothian considers any part of it exempt from disclosure, a schedule of the exemptions claimed with reasons, and disclosure of any parts that are not exempt.

Review Response:

In relation to Question 1, NHS Lothian has not had any direct contact, meetings, correspondence, or discussions with Palantir Technologies Inc., or any of its subsidiaries or associated companies, during the period specified in your request.

In relation to Question 4, the Data Protection Impact Assessment (DPIA) referred to was undertaken at a high-level and exploratory stage, based on publicly available information and generic information provided through NHS Scotland and UK-wide discussions about potential future data platforms. The DPIA was not scoped on the basis of engagement with Palantir Technologies directly, nor through any third party acting on its behalf. It was completed as part of routine information governance due diligence to consider potential future technologies, rather than in support of any agreed or active proposal to procure or deploy Palantir software.

To clarify, no contact, correspondence, or discussions have taken place with Palantir Technologies, nor with any intermediary, procurement framework provider, shared services body, or other NHS organisation acting on behalf of Palantir Technologies, that would alter our original response to Question 1.

The draft DPIA that was the result of this exercise is not finalised or approved, and therefore we consider it exempt from release. This is because the release of the draft to the public may affect any future changes to the draft. Under section 30 of the Freedom of Information (Scotland) Act 2002, information is exempt from release if it would prejudice substantially, or be likely to prejudice substantially, the effective conduct of public affairs.

If you are not satisfied with this response you still have the right to make a formal complaint to the Scottish Information Commissioner who you can contact at the address below or using the Scottish Information Commissioner's Office online appeals service at <https://www.foi.scot/appeal>. If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.



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Yours sincerely

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Deputy Chief Executive, NHS Lothian