November Ethics Committee

Issue

Evaluation of the RFSDi Harms Score and the Integrated Offender Management Model

1. I am asked to advise on the legal implication of the RFSDi/IOM Model further to the evaluation conducted by the Data Analytics Lab and an external independent review by Alexander Babuta. I have not had sight of the final version of the evaluation conducted by the DAL. The RFSDi/IOM Model has been used by two Local Offender Units (LOMUs) during beta testing. Legal advice has been provided to the Ethics Committee on this issue when it was considered in 2019 with beta –testing commencing in October 2021. (A copy of which is attached Appendix 1).

Background

2. The purpose of the model is to assist Offender Managers to identify the most harmful offender who should be prioritised for proactive offender management. This will include consideration of those offenders who are not yet catagorised as 'high harm' but should be considered for offender management as a preventative measure.
3. Only individuals who have been charged with offences will be included in the model.
4. The model has two functions the identification and catagorisation of harm levels and a predictive function.
5. The model has been in operation since October 2021 and the independent external review has considered its operation over an 8 month period from Oct 2021 to May 2022. An internal review has also been conducted by the Data Analytics Lab.

Analysis

6. The data is being processed for law enforcement purposes. The principle of lawful collection of data for crime and disorder purposes has been established in case law and is not in itself in contrary to Art 8 Rights to Private Life.
7. A note has been produced by the Assistant Director of Information Management which sets out in detail the force's legal basis for processing data in accordance with Part 3 of the Data Protection Act 2018 (Law Enforcement Directive) (Appendix 2).
8. I have had sight of the DPIA Stage 1 and Stage 2 both of which were produced in 2018. I am advised that there is no Sensitive Personal Data being processed for the purposes of the final model, although ethnicity data is used in the initial model. As provided in earlier legal advice the processing of sensitive personal data would need to be either by consent or else 'strictly necessary for the law enforcement purpose' and meet one of the conditions of Schedule 8. I have not been presented with any details to suggest such processing is necessary for the purpose of the model as it currently operates and my instructions are that this is not in issue.
9. My understanding is that the model is not being operated on an automated basis with Offender Managers making decisions and supplementing where necessary further information. Indeed there is significant reference to
10. There has been an in internal and independent evaluation of the model and its operation by the two local offender units. The outcome of those reports is being shared with the Ethics Committee and is relevant in consideration of the legal duties and responsibilities of the

force given the processing of the data should be both necessary and proportionate. This is particularly relevant when addressing Art 8 and Art 14 (protection from discrimination).

11. The conclusions of the independent report indicate that there is '*insufficient evidence in favour of deploying the RFSDi dashboard and accompanying IOM model for long-term operational use*' and that '*the research remains inconclusive on whether the application will ultimately provide the operational benefits for the force that were envisaged at the time of its development*'.

12. The internal review identified issues with training and makes a number of recommendations to improve levels of understanding and better use of the model. The model only includes those who have been charged with offences and feedback from LOMUs is that they are having to supplement the RFSDi with additional information from other sources. In particular details of those suspected or being investigated for other offences.

13. While Inspectors have used the predictive element of the model it does not appear to be used to any great extent by Offender Managers.

14. I understand that the Ethics Committee have been presented with a number of recommendations arising from the internal review. Those recommendations include the expansion of the RFSDi model by including suspects' details ie those who have not been charged with offences and to consider adding a networking chart.

15. The parameters for the additional data needed to implement these recommendations is not at this time clear to me. For example is the suspect data limited to those who have been arrested but not charged? What data would be used to build association charts? I am not in a position to advise on the legal implications of the recommendations.

Conclusion

16. The processing of data is lawful where it is for a legitimate policing purpose and assists the force to allocate and use its resources efficiently and effectively.

17. There issues raised in the original legal advice remain pertinent.

18. The independent review sets out a number of concerns as to whether it is possible to assess the benefits of the model based on its research. Given the limited use of the model and the recommendations relating to training identified in the internal report (including the predictive element of the IOM) it is difficult to fully explore this as a whole.The true benefits of the model and the predictive element of the IOM have not yet been fully established.

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Joint Legal Services

25 Oct 2022