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Shared Insights

Avoiding pitfalls when implementing artificial intelligence in the health and care sector

Speakers

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Introduction

The NHS 10 Year Health Plan set out an ambitious commitment to make the NHS the most "AI enabled care system in the world". In this session, chaired by Gerard Hanratty, Head of Health and Life Sciences at Browne Jacobson, we explored insights and practical hints and tips for health and care organisations when implementing AI.

This session explored the practical risks and pitfalls of AI implementation in health and care organisation. Speakers discussed effective policies and governance to support that implementation, based on our experience and the advice we provide to health and care organisations through the journey to digitisation.

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How we can help

- Support a full analysis of whether your data and existing systems are AI ready.
- Provide a RAG rated assessment of your governance arrangements and plan to implement new AI tools.
- Advise on product development and protecting your intellectual property.
- Review supply arrangements, including looking at cybersecurity, to RAG rate risk and compliance.
- Undertake a full review of data processes to advise on legal compliance with legislation and what is needed to do business in the health or life sciences sectors.
- Advise on all procurement and contracting arrangements with regard to AI and other MedTech, from either a provider or purchaser perspective.
- Support partnership arrangements between the public and private sectors to develop and advance research and innovation into AI and MedTech.

Practical tips for procurement

Chris Holder – Partner,
Browne Jacobson

Chris emphasised the importance of approaching the implementation of AI as you would any other commercial technology transaction. A process should be followed before investing money into using the technology.

This process should involve relevant stakeholder engagement, including IT, Finance, HR, Legal and Procurement. All departments should be brought together to run these projects as the technology will have an impact on the day-to-day activities and commercial aspects of the business.

Many organisations buy technology without knowing what they are using it for. Procurement can last months if not years, so it is helpful to set objectives at the beginning to look back on. It is helpful to ask yourself the following questions:

- What are you going to use AI for?
- What problem are you trying to solve by using AI?
- What do you already have and what do you want to do?
- What products are out there?
- How do we know what 'good' looks like?
- When does this need to be done by? This has an implication for buying timelines and getting stakeholders together. It needs answering quickly.

To facilitate a competitive procurement programme, Request for Proposal (RFP) and Invitation to Tender (ITT) documents get the plan out there in relation to what you want to purchase and set out what you want to do; it tells a story. A lot of information is needed in these documents. It is a good idea to distil it into key terms and conditions which will feed into the overall contract. Being clear on what you want ensures that by the point of contract negotiation a lot of the hard work has already been done.

RAG reporting can be a very good audit tool for contract negotiations. It helps with scoring and down selection. It is important to keep competitive tension during down selection (e.g. by keeping 2 providers in the process) to facilitate negotiation of terms and requirements. Keep a paper trail explaining how you got to your decisions.

Project teams need to be at all negotiations. Ensure the project team is not ignored by 'top level executive discussions'. Key personnel need to be included and installed in these large-scale transactions. Be clear about who will run the contract from both sides. From a delivery perspective you, as a customer, need to know who you are dealing with.

The work of contract management isn't done when the contract is signed. Do not 'put the agreement in the bottom drawer'. The supplier will have a contract management team and so if you do not have one you put yourself at a disadvantage. Ensure contract changes follow the agreed process and are clearly documented. Treat each contract change as a mini negotiation within reason. When you are going through the contract management process go back to the original objectives, and always keep those in mind. Following that approach with all the right people involved will give you a better chance of running a successful AI procurement project.

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Practical tips for deployment

Gerard Hanratty – Head of Health and Life Sciences, Browne Jacobson

The first 2 questions we ask a client is why they are buying AI and whether the data sets are ready and compliant.

Approximately 75% of organisations that have purchased AI have not put in place an adequate system for governance and implementation. Patient data should be used properly, securely, and for the benefit of the patient.

There is a huge number of regulations and guidance to take into account in the health sector. We probably look at about 20 different types of Regulations, Standards and Guidance, all of which are quite large, for due diligence exercises on governance. As it currently stands, we do not have AI legislation in the UK. However, we do have the EU AI Act, although some people question whether this is already out of date given ongoing developments. Certainly, EU regulations can give a steer on UK regulation, for example medical devices regulations used by the MHRA originally came from an EU regulation.

Gerard discussed the Irish approach to AI regulation and the risk of regulation being implemented too harshly and restricting research and innovation. The Data Use and Access Act 2025 (DUAA) has a broader approach and opens up the ability for health and life sciences sectors to use data. Flexibility is important for encouraging the UK's growth in the AI sector and the ISO 42001 AI management system is a way for businesses to assure quality and compliance. Having a robust governance and accountability framework is and essential element of implementation.

In terms of MHRA classifications then self-certification will change as we go forward. So, manufacturers of AI who sell all over the world might self-certify to see if countries buy it and if not whether they need to seek other certification to be more attractive. For example, Volvos have built-in AI for driverless capabilities that is switched off depending on the receiving country.

When deploying AI, organisations should:

- Have clear governance and framework for usage
- Start small to uncover any teething problems.
- Start with staff who have some understanding of the technology, won't be overawed by the issues and can explain it to patients who might be worried.
- Provide comprehensive staff training.
- Review and update privacy and data policies annually for the purpose of using data going forward. Patients should generally consent to use of their data for AI.
- Make it easy for people to make you aware of any problems. Common issues could be around bias and inequalities. You may need to go back to the manufacturer if the results are not correct. There is discussion going on globally around avoiding bias.
- Look at ISO standards and take your time with implementation. You will see rapid development as you go forward.

It all feels a little bit different as it relates to AI, but it is not something new and will not replace clinicians. Ultimately it is a support tool and there will always be a need for human oversight.

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Discussion

There was a discussion around whether the use of AI in the health and life science space is being looked at as a silver bullet. Attendees had experience of AI solutions largely falling into the category of making simple tasks more efficient or grander projects relating to predictions and diagnosis. It was noted that AI offers a huge benefit in regard to the efficient use of time and resources. However, it is limited by the data which it has, some jurisdictions in the world have great AI but poor data. AI offers opportunities to adress challenging healthcare situations globally and support the current movement towards preventative care.

There was also discussion around the use of AI in mental health spaces, especially where AI cannot fully assess risk. 1 in 4 young people are turning to AI for assistance. There was discussion around the regulation of chat bots for both mental and physical health. The value of face to face contact with a medical professional was recognised and that AI cannot provide the answer to everything as a mathematical algorithm. AI allows insight into vast amounts of data but does not replicate human interaction. AI can inform and support decision making but the actual decision needs to be made by a human. Medical decisions have to be focused on the individual patient and what the clinician thinks is best for that individual. AI does not replace the individual human providing that care or making that decision.

In relation to regulation, it was noted that the MHRA, NICE and DHSC/NHS England have a role in national regulation for health, but that there needs to be a global approach and global standards. It is possible there will be a move by the UK to work more closely with the EU and other jurisdictions. There was also discussion around accountable decision-making and liability. It was noted that standards of public law decision making would still apply and that case law updates relating to clinical negligence are awaited.

Resources

- Making government datasets ready for AI - GOV.UK
- Regulation - EU - 2024/1689 - EN - EUR-Lex
- Data (Use and Access) Act 2025

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