

Confidentiality: disclosing information about serious communicable diseases

1 In our guidance *Confidentiality: good practice in handling patient information* we say:

1 Trust is an essential part of the doctor-patient relationship and confidentiality is central to this. Patients may avoid seeking medical help, or may under-report symptoms, if they think their personal information will be disclosed by doctors without consent, or without the chance to have some control over the timing or amount of information shared.

17 You must disclose information if it is required by statute, or if you are ordered to do so by a judge or presiding officer of a court.

18 You should satisfy yourself that the disclosure is required by law and you should only disclose information that is relevant to the request. Wherever practicable, you should tell patients about such disclosures, unless that would undermine the purpose, for example, by prejudicing the prevention, detection or prosecution of serious crime.

62 You should ask for a patient's consent to disclose information for the protection of others unless the information is required by law or it is not safe, appropriate or practicable to do so¹. You should consider any reasons given for refusal.

64 If it is not practicable or appropriate to seek consent, and in exceptional cases where a patient has refused consent, disclosing

personal information may be justified in the public interest if failure to do so may expose others to a risk of death or serious harm. The benefits to an individual or to society of the disclosure must outweigh both the patient's and the public interest in keeping the information confidential.

67 Before deciding whether disclosure would be justified in the public interest you should consider whether it is practicable or appropriate to seek consent (see paragraph 14). You should not ask for consent if you have already decided to disclose information in the public interest but you should tell the patient about your intention to disclose personal information, unless it is not safe or practicable to do so. If the patient objects to the disclosure you should consider any reasons they give for objecting.

68 When deciding whether the public interest in disclosing information outweighs the patient's and the public interest in keeping the information confidential, you must consider:

- a** the potential harm or distress to the patient arising from the disclosure – for example, in terms of their future engagement with treatment and their overall health
- b** the potential harm to trust in doctors generally – for example, if it is widely perceived that doctors will readily disclose information about patients without consent

- c the potential harm to others (whether to a specific person or people, or to the public more broadly) if the information is not disclosed
- d the potential benefits to an individual or to society arising from the release of the information
- e the nature of the information to be disclosed, and any views expressed by the patient
- f whether the harms can be avoided or benefits gained without breaching the patient's privacy or, if not, what is the minimum intrusion.

If you consider that failure to disclose the information would leave individuals or society exposed to a risk so serious that it outweighs the patient's and the public interest in maintaining confidentiality, you should disclose relevant information promptly to an appropriate person or authority.

About this guidance

- 2** Confidentiality is important to all patients and all patients are entitled to good standards of care, regardless of what disease they might have, or how they acquired it. Those who have, or may have, a serious communicable disease² might be particularly concerned about their privacy. This explanatory guidance sets out how the general principles in our guidance *Confidentiality* apply when doctors are accessing, using or disclosing information about the infection status of patients who have serious communicable diseases.

Protecting information against improper disclosure

- 3** You should make sure that information you hold or control about a patient's infection status is at all times effectively protected against improper disclosure. If you disclose information about a patient's infection status, you must keep disclosures to the minimum necessary for the purpose.

Control and surveillance of serious communicable diseases

- 4** You must pass information about notifiable diseases to the relevant authorities for communicable disease control and surveillance. Different diseases are notifiable in different UK countries and the reporting arrangements differ. You should follow the arrangements where you work.³ You should disclose anonymised information if practicable and as long as it will serve the purpose.

Protecting patients from risks posed by your health or your colleagues' health

- 5** *Good medical practice*⁴ says:
- 28** If you know or suspect that you have a serious condition that you could pass on to patients, or if your judgement or performance could be affected by a condition or its treatment, you must consult a suitably qualified colleague. You must follow their advice about any changes to your practice they consider necessary. You must not rely on your own assessment of the risk to patients.
- 29** You should be immunised against common serious communicable diseases (unless otherwise contraindicated).
- 6** You should follow our guidance *Raising and acting on concerns about patient safety* if you are concerned that a colleague who has a serious communicable disease is practising, or has practised, in a way that puts patients at risk of infection.⁵ You should inform your colleague before passing the information on, as long as it is practicable and safe to do so.

Disclosing information about patients who are diagnosed with a serious communicable disease to those providing direct care

- 7 Most patients understand and expect that relevant information must be shared within the direct care team to provide their care. If a patient objects to disclosure of personal information that you are convinced is essential to provide them with safe care, you should follow the guidance at paragraphs 30 and 31 of *Confidentiality*. If the patient does not have capacity to make the decision, you can disclose information if it is in their overall benefit, in line with the guidance at paragraphs 48 and 49 of *Confidentiality*.
- 8 If a patient who has been diagnosed with a serious communicable disease refuses to allow you to tell others providing their care about their infection status, and you believe that failing to disclose the information will put healthcare workers or other patients at risk of infection, you should explain to the patient the potential consequences of their decision and consider with the patient whether any compromise can be reached.
- 9 Like everyone else, healthcare workers are entitled to protection from risks of serious harm. But disclosure of information about a patient's infection status without consent is unlikely to be justified if it would make no difference to the risk of transmission – for example, if the risk is likely to be managed through the use of universal precautions that are already in place.⁶ If the patient continues to refuse to allow you to tell other members of the healthcare team about their infection status, you must abide by their wishes unless you consider that disclosing the information is necessary to protect healthcare workers or other patients from a risk of death or serious harm.

Disclosing information in response to injuries to colleagues and others

- 10 If a colleague, police officer or anyone else suffers a needlestick or similar injury involving a patient who has, or may have, a serious communicable disease, you should make sure that a risk assessment is made urgently by an appropriately qualified colleague. Post-exposure prophylaxis should be offered in accordance with that risk assessment, depending on the type of body fluid or substance involved and the route and severity of the exposure.⁷
- 11 You should ask for the patient's consent to disclose their infection status after other people have been exposed to a serious communicable disease. If the patient cannot be persuaded to consent to disclosure, or if it is not safe or practicable to ask for their consent, you may disclose information if it is justified in the public interest. This could be, for example, if the information is needed for decisions about the continued appropriateness of post-exposure prophylaxis. You should follow the guidance on disclosing information in the public interest at paragraphs 63–70 of *Confidentiality: good practice in handling patient information*.

Informing people at risk of infection from serious communicable disease

- 12 You should explain to patients who have serious communicable diseases how they can protect others from infection, including from sexually transmitted diseases. This includes the practical measures they can take to avoid transmission, and the importance of informing people with whom they have sexual contact about the risk of sexual transmission of serious communicable diseases.
- 13 You may disclose information to a person who has close contact with a patient who has a serious communicable disease if you have reason to think that:
 - a the person is at risk of infection that is likely to result in serious harm

- b the patient has not informed them and cannot be persuaded to do so.

- 14** If you believe that an adult who is at risk of infection lacks capacity to understand this information, and is at risk of serious harm, you must give relevant information promptly to an appropriate responsible person or authority, unless it is not of overall benefit to the patient to do so (see paragraphs 55 and 56 of *Confidentiality*).
- 15** You should tell the patient before you disclose the information if it is practicable and safe to do so. When you are tracing and notifying people, you should not disclose the identity of the patient, if practicable. You must be prepared to justify a decision to disclose personal information without consent.⁸

Disclosing information when children and young people are at risk of a serious communicable disease

- 16** Most patients with a serious communicable disease who are parents of, or care for, children will do all they can to protect the children from the risk of infection or the effects of the disease. You should make sure the patient understands the information and advice you give them, which you should tailor to their needs. You should do all you reasonably can to support them in caring for themselves and in protecting their children.
- 17** You should explain to a patient with a serious communicable disease the importance of testing any children who may already be infected, including children without symptoms and young people who might have been vertically infected with a blood-borne virus.

- 18** If you are concerned that a child is at risk of serious harm because their parents cannot be persuaded to protect them from the risk of infection, or because they refuse to allow the child to be tested, you should treat it as a safeguarding concern and follow the advice in our guidance *Protecting children and young people: the responsibilities of all doctors*.⁹

Recording serious communicable diseases on death certificates

- 19** If a serious communicable disease has contributed to the cause of death, you must record this on the patient's death certificate.

Endnotes

- 1 We give examples of when it might not be practicable to seek consent in paragraph 14 of *Confidentiality: good practice in handling patient information*. You can find all of our guidance online at www.gmc-uk.org/guidance.
- 2 In this guidance, the term 'serious communicable disease' applies to any disease that can be transmitted from human to human and that can result in death or serious illness. It particularly applies to, but is not limited to, HIV, tuberculosis, and hepatitis B and C.
- 3 You can get advice from Public Health England, Public Health Wales, Communicable Disease Surveillance Centre in Northern Ireland and Health Protection Scotland.
- 4 *Good medical practice* (General Medical Council, 2013). You can find all of our guidance online at www.gmc-uk.org/guidance.
- 5 See *Health clearance for tuberculosis, hepatitis B, hepatitis C and HIV: New healthcare workers* (Department of Health, 2007); *Health Clearance for Tuberculosis, Hepatitis B, Hepatitis C and HIV for new Healthcare Workers with direct clinical contact with patients* (Scottish Government, 2008); *The Management of HIV infected Healthcare Workers who perform exposure prone procedures: updated guidance* (Department of Health, 2014); and *HIV Infected Health Care Workers: Guidance on Management and Patient Notification* (Scottish Government, 2005).