

# Confidentiality: disclosing records for financial and administrative purposes

- 1 In our *Confidentiality* guidance, we advise that:
  - 33 As a general rule, you should seek a patient's express consent before disclosing identifiable information for purposes other than the provision of their care or local clinical audit, such as financial audit and insurance or benefits claims.
  - 41 For many secondary uses, it will be sufficient and practicable to disclose only anonymised or coded information. When identifiable information is needed, or it is not practicable to remove identifiable information, it will often be perfectly practicable to get patients' express consent.
  - 42 You may disclose identifiable information without consent if it is required by law, if it is approved under section 251 of the *NHS Act 2006*,<sup>1</sup> or if it can be justified in the public interest and it is either:
    - (a) necessary to use identifiable information, or
    - (b) not practicable to anonymise or code the informationand in either case, not practicable<sup>2</sup> to seek consent (or efforts to seek consent have been unsuccessful).
- 2 If you are responsible for the management of patient records or other patient information, you should make sure that financial and administrative information is recorded separately from clinical information.
- 3 If you are asked to disclose information about patients for financial or administrative purposes you should, if practicable, provide it in anonymised or coded form, if that will serve the purpose. If identifiable information is needed, you should, if practicable, seek the patient's express consent before disclosing it.
- 4 You must draw attention to any system that prevents you from following this guidance, and recommend change. Until changes are made, you should make sure that information is readily available to patients explaining that their personal information may be disclosed for financial, administrative and similar purposes, and what they can do if they object. If a patient asks, you should explain the nature and purpose of disclosures made for financial and administrative purposes. You should do your best to act on any objections. If you are satisfied that it is not possible to comply with the patient's wishes, and still provide care, you should explain this to the patient and explain their options.
- 5 You should satisfy yourself that anyone who will have access to the information is bound by a duty of confidentiality not to disclose it further.
- 6 Disclosure may be required by law in some cases, for example, in the investigation of fraud by the NHS Counter Fraud Service, or approved under section 251 of the *NHS Act 2006*.<sup>4</sup>
- 7 For more information on commissioners' access to personal information held by general practices for purposes such as Quality and Outcomes Framework reviews, see the relevant *Confidentiality and Disclosure of Information Directions* and *Code of Practice*.<sup>5</sup>

## Endnotes

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- 1 Section 251 of the *NHS Act 2006* applies only to England and Wales, where doctors should seek and abide by the independent advice of the Ethics and Confidentiality Committee of the National Information Governance Board.
- 2 You should consider whether the work needed to anonymise or code the information or to seek patients' consent is reasonably practicable in all the circumstances. Only if unreasonable effort is required should you go on to consider whether disclosure of identifiable information is justified in the public interest.
- 3 If it is not practicable to anonymise or code the information or to seek or obtain patients' consent without unreasonable effort, and the likelihood of distress or harm to patients is negligible, disclosure for an important secondary purpose may be proportionate. You should respect patients' objections to disclosure.
- 4 For further advice see paragraphs 17 to 20 (*Disclosures required by statute*) and 40 to 50 (*Research and other secondary uses*) of the main *Confidentiality* guidance.
- 5 *Confidentiality and Disclosure of Information: General Medical Services (GMS), Personal Medical Services (PMS) and Alternative Provider Medical Services (APMS) Directions 2005 and Code of Practice* (Department of Health, 2005).

*Confidentiality and Disclosure of Information: General Medical Services (GMS), Section 17c Agreements, and Health Board Primary Medical Services (HBPMS) Directions 2005 and Code of Practice* (Scottish Executive Health Department, 2005).

*Confidentiality and Disclosure of Information: General Medical Services and Alternative Provider Medical Services Directions 2006 and Code of Practice* (Welsh Assembly Government, 2005).

*Confidentiality and Disclosure of Information: General Medical Services and Alternative Provider Medical Services Directions (Northern Ireland) 2006 and Code of Practice* (Department of Health, Social Services and Public Safety, 2006).