

Confidentiality: disclosing information for education and training purposes

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

77 Many important uses of patient information contribute to the overall delivery of health and social care. Examples include health services management, research, epidemiology, public health surveillance, and education and training. Without information about patients the health and social care system would be unable to plan, develop, innovate, conduct research or be publicly accountable for the services it provides.

79 Anonymised information will usually be sufficient for purposes other than the direct care of the patient and you must use it in preference to identifiable information wherever possible. If you disclose identifiable information, you must be satisfied that there is a legal basis for breaching confidentiality.

80 You may disclose personal information without breaching duties of confidentiality when any of the following circumstances apply.

- a** The disclosure is required by law, including by the courts (see paragraphs 87–94).
- b** The patient has given explicit consent (see paragraph 95).

- c** The disclosure is approved through a statutory process that sets aside the common law duty of confidentiality (see paragraphs 103–105).
- d** The disclosure can, exceptionally, be justified in the public interest (see paragraphs 106–112).

You must also be satisfied that the other relevant requirements for disclosing information are met (see paragraph 10).¹

About this guidance

- 2** The use of information about patients is essential to the education and training of medical students, doctors in training and other healthcare students and trainees. This explanatory guidance sets out how the general principles in our guidance *Confidentiality* apply in the particular context of education and training.

General principles

- 3** For most education and training uses, anonymised information will be sufficient and must be used whenever practicable. If it is necessary to use identifiable information about a patient, or it is not practicable to anonymise information, you should usually ask for the patient's explicit consent before disclosing it to anyone who is not part of the team that is providing or supporting the patient's direct care. You should make sure that the patient is under no pressure to consent. In particular, you should avoid any impression that their care depends on giving consent.²

Teaching and training of medical students, doctors in training and other healthcare students and trainees

- 4** Most patients understand and accept that the education and training of medical students, doctors in training and other healthcare students and doctors in training relies on them having access to information about patients. If doctors in training or medical or healthcare students are part of the team providing or supporting a patient's direct care,³ they can have access to the patient's personal information, just as other team members do, unless the patient objects.⁴
- 5** If the doctor or student is not providing or supporting the patient's care, anonymised information should be used for education and training purposes whenever practicable. This may not be achievable, for example, on ward rounds, but it will then usually be possible to seek the patient's explicit consent to disclosure.
- 6** In some cases it might be necessary to disclose personal information, or it might not be practicable to anonymise it or to ask for a patient's consent. In such cases you may disclose relevant personal information to medical students, doctors in training and other healthcare students and trainees, as long as you are satisfied that information has been made readily available to the patient about the disclosure and of their right to object, and they have not objected. You must also be satisfied that they understand that the information is given in confidence, which they must respect.

Patients who lack capacity

- 7** You should not disclose personal information for education and training purposes about patients who lack capacity if you can use information about other patients instead.
- 8** If you wish to disclose personal information about a patient who currently lacks capacity (for example, because they are acutely unwell), but who is likely to regain capacity, you should wait and ask for their consent later if you can.
- 9** If you are asked, or want, to disclose information about a patient who lacks capacity, you should seek the views of anyone the patient asks you to consult, or who has legal authority to make decisions on their behalf,⁵ or who has a close personal relationship with the patient. They may be able to give you an indication of the patient's previously expressed preferences, views and beliefs.
- 10** In the absence of any indication about the preferences of a patient who lacks capacity, you should not publish information that could identify that patient. In exceptional cases, however, you may disclose relevant personal information to medical students, doctors in training and other healthcare students and trainees if it is necessary for their education and training. You must be satisfied there is no reasonably practicable alternative to using personal information, and you should have no reason to believe that it is contrary to the interests of the patient to do so.

Disclosing information to secondary school and college students

- 11 Doctors are sometimes asked to provide work experience for secondary school or further education college students, which may include allowing them to be present during consultations with patients.
- 12 You should ask for the patient's explicit consent to a student observing their care. You should also satisfy yourself that the student's presence does not adversely affect the patient's care, for example by inhibiting frank discussion.
- 13 You should satisfy yourself that the student understands the importance of respecting confidentiality and that their school or college takes seriously its responsibilities for its students' conduct.⁶

Training records and case studies

- 14 You must anonymise patient information in training records and case studies as far as it is possible to do so. The anonymisation code of practice published by the Information Commissioner's Office considers data to be anonymised if it does not itself identify any individual, and if it is unlikely to allow any individual to be identified through its combination with other data.⁷ Simply removing the patient's name, age, address or other personal identifiers is unlikely to be enough to anonymise information to this standard.⁸
- 15 If it is difficult to anonymise information about patients while retaining enough detail to make a training record useful, or if it is necessary to include potential identifiers to allow the record to be audited, you should ask for the patient's consent to use their information if you can. If it is not practicable to seek the patient's consent, you may use potentially identifiable information in a training record as long as you are satisfied that the record will be kept securely and will be managed in accordance with other data protection requirements. You must still remove as many identifiers as you can.⁹
- 16 If the information is likely to be more widely accessible (for example, in discussion at a seminar or conference, or published in a journal), and you consider that the patient could be identified, you should usually use the information only when you have the patient's explicit consent.
- 17 When asking for the patient's consent, you must give the patient enough information about the nature and purpose of the disclosure to enable them to make an informed decision. This should include a description of the information to be disclosed and an indication of who will have access to it and how it will be used.
- 18 You may disclose information only for the purposes for which the patient has given consent, and you must remove as many identifiers as you can. You must respect a patient's refusal to consent to the publication of their identifiable information.
- 19 If for any reason you cannot get a patient's consent – for example, because the information you want to disclose is so old that efforts to trace the patient have been or are likely to be unsuccessful – you will need to consider whether disclosing potentially identifiable information can be justified in the public interest. You should seek advice from a Caldicott or data guardian or a legal adviser, who is not directly connected with the use for which the disclosure is being considered, before disclosing personal information without consent.

Endnotes

- 1 All paragraph numbers in this section refer to our guidance *Confidentiality: good practice in handling patient information*. You can find all of our guidance online at www.gmc-uk.org/guidance.
- 2 See our guidance *Decision making and consent* paragraph 13 which states that you must give patients the information they want or need about their right to refuse to take part in teaching.
- 3 In this guidance, 'direct care' refers to activities that directly contribute to the diagnosis, care and treatment of an individual. The direct care team is made up of those health and social care professionals, who provide direct care to the patient and others, such as administrative staff, who directly support that care.
- 4 See paragraphs 28–29 of *Confidentiality* for advice on implied consent.
- 5 Welfare attorneys, court-appointed guardians and court-appointed deputies have legal authority to make some decisions on a patient's behalf. For disclosure in the public interest, you will be seeking their views about the patient's preferences, rather than their consent to disclose.
- 6 Practical guides on arranging work experience have been published in Wales, *Enabling work experience in the health sector in Wales* (Careers Wales, 2012), and in England, More than photocopying: *Work experience - a toolkit for the NHS* (Health Education England Careers, 2015).
- 7 You can find the Information Commissioner's Office (ICO) anonymisation code of practice on the ICO website at www.ico.org.uk.
- 8 Other potential identifiers include the patient's initials, postcode, NHS or CHC number, local identifiers (such as hospital numbers), national insurance number, and key dates (such as birthdate, date of diagnosis or date of death).
- 9 The Academy of Medical Royal Colleges has published guidance on entering information in e-portfolios, which you can find on their website at www.aomrc.org.uk/publications/reports-guidance/academy-guidance-e-portfolios.