

Case study

Should a doctor disclose evidence of abuse without the patient's consent?

Patient notes

- Mary Giggs – 87 year old, lived independently until a year ago when she had a stroke. Since then she's lived with her daughter, Julie, who is her main carer, and Julie's husband Geoff
- Dr Rix is her GP
- On a home visit to review her stroke medication, Dr Rix notices bruising on Mary's arms. On further examination, he notices the bruises are in a specific pattern – three long bruises next to each other around the forearm

Dr Rix sensitively asks Mary about how she got the bruises. Mary looks uncomfortable and doesn't say anything.

He explains to her that he doesn't only look after her medication but her wellbeing as a whole.

Mary asks Dr Rix if she can tell him something in strict confidence.

Dr Rix is alerted as this isn't a normal pattern of bruising for Mary.

Dr Rix uses his communication skills to make Mary aware of his concern for her wellbeing.

Dr Rix explains that as a doctor he isn't allowed to disclose information Mary tells him without her consent. He also explains that if he thinks she might be at risk of harm then he might have to tell someone else but he wouldn't disclose anything until he'd discussed it with her.

Before Dr Rix lets Mary disclose information, he informs her of his duty of confidence and the exceptions around this.

Mary hesitates, but tells Dr Rix that Julie's husband left her two months ago. Since then Julie has stopped working and is drinking alcohol heavily.

Mary goes on to say that Julie has been getting very upset, and she thinks she may have said something to provoke her.

Dr Rix asks whether Julie hit her, and if this has happened before

Mary becomes evasive, and speaks about the stress Julie is under and then states "it wasn't the first time exactly" and goes on to reassure Dr Rix not to worry.

Dr Rix tries to clarify if Mary has been physically assaulted.

Dr Rix is worried about Mary's welfare. He knows he has a number of options to consider:

1. Should he try to persuade Mary to tell someone else (or allow him to)?
2. If he can't persuade her, should he contact social services to make a safeguarding referral –or contact the police to report a suspected crime?
3. Should he respect Mary's decision? – She's an adult with capacity to make her own decisions.

Dr Rix starts with the presumption Mary has capacity to make the decision.

He has a discussion with her so he can better assess whether she has/lacks capacity.

Dr Rix knows capacity is decision and time specific. And he must always work on the presumption a patient has capacity about whether information on their situation should be disclosed to others.

Dr Rix encourages Mary to let him contact social services about her situation, she refuses. Dr Rix concludes Mary has capacity to make this decision (and there is not a legal requirement to disclose) so he abides by her wishes.

As Mary has capacity Dr Rix doesn't disclose any information she has told him, even though he considers she may be left at risk of serious harm.

Dr Rix provides her with information about local services that can help including a support group.

Mary agrees to Dr Rix calling her regularly to check on her welfare.



Dr Rix gives Mary options for further support and will meet with her to review.

What does GMC guidance say?

The key points from *Confidentiality: good practice in handling patient information* are:

- Dr Rix explains to Mary before she discloses sensitive information what his duty is
- Dr Rix works on the presumption Mary has capacity to make her own decision around disclosure of information (Paragraphs 41-43)
- Dr Rix encourages Mary to allow him to contact social services (paragraph 57-58)
- Dr Rix respects Mary's decision of not allowing disclosure, even if he considers this decision to be unwise (paragraph 57)

If Mary did not have capacity to make decision of disclosure...

- Dr Rix could disclose information if it were of overall benefit for Mary (paragraph 44)
- Dr Rix must tell an appropriate responsible person or authority if he believed she was at risk of abuse/neglect (paragraph 55-56)
- Even if Mary did not have capacity it would be important for Dr Rix, when deciding what to do, to take the course of action which is least restrictive of Mary's rights and freedom of action (paragraph 44)