

Case study

Dealing with issues relating to confidentiality and potential abuse of an older adult

Patient notes

- Mrs Giggs is 87 years old and had a fall last year.
- Since then has lived with her daughter Julie, who is her main carer, and Julie's husband Geoff.
- To date she has had the capacity to make all her own decisions.
- Both Mrs Giggs and Julie are registered with the family's GP, Dr Rix, whom they know very well.

All paragraphs referenced are from *Confidentiality: good practice in handling patient information*

On a home visit, Dr Rix notices bruising on Mrs Giggs arms. He asks how these were caused. Mrs Giggs asks if she can tell him something in confidence.

Dr Rix explains he can't usually disclose what she tells him without her consent, but that he might have to tell someone else if he has reason to believe that someone is at risk of being seriously harmed.

He assures Mrs Giggs that he wouldn't disclose anything without discussing it with her first.

Dr Rix recognises his ethical and legal duty of confidentiality but that it is not absolute. He may disclose information if:

- a) The patient consents
- b) The disclosure is of overall benefit to a patient who lacks capacity to consent.
- c) The disclosure is required by law
- d) The disclosure can be justified in public interest.

(Paragraphs 9-23 and 41-49)

Mrs Giggs tells Dr Rix that Geoff has left Julie for someone else. Since then Julie has been drinking heavily, has stopped working and can get very upset.

Dr Rix asks if Julie hit her and whether it has happened before. Mrs Giggs is evasive but eventually confirms that 'it wasn't the first time'. She tries to reassure Dr Rix that there's no need to worry or to take the matter further as she is 'very happy here and Julie needs her just as much as she needs Julie'.

Dr Rix suspects elder abuse but needs more information

Dr Rix needs to assess whether Mrs Giggs has capacity to decide whether information should be disclosed. Capacity is decision and time specific. Dr Rix must work on the presumption that she has capacity

(Paragraphs 41-43).

Dr Rix encourages Mrs Giggs to let him contact social services about her situation, but she refuses.



Dr Rix supports Mrs Giggs to be involved in the decision to disclose

(Paragraphs 44-47)

Dr Rix feels she has capacity to make the decision so abides by her wishes.



Mrs Giggs has capacity, she is therefore entitled to make decisions in her own interests, even if others consider those decisions to be irrational or unwise

(Paragraph 57).

If Mrs Giggs was assessed to lack capacity, guidance on this can be found in paragraphs 44-47, 55 and 56.

Doctors in Scotland and Wales should be aware of some additional legal requirements in their countries.

It may be appropriate to encourage her to consent to disclosure for her protection and to explain risks of not disclosing. However, doctors should usually abide by the patients refusal, even if the decision leaves them (but no one else) at risk of serious harm, unless the disclosure is required by law.

(Paragraphs 57-59).

He provides her with information about local charities and support groups working with elderly people and encourages her to contact them.

He asks Mrs Giggs if he can telephone her regularly to check on her wellbeing, and she agrees.

Dr Rix takes the least restrictive course of action to Mrs Giggs' rights and freedom.

(Paragraph 44)

Dr Rix is concerned about Julie's health, both as his patient and as Mrs Giggs' sole carer.

He wants to assess and address Julie's needs and decides to call her to arrange a consultation, but she does not answer her mobile phone. He is also unable to reach Mrs Giggs by telephone. After several attempts, he decides to call at the house.

Julie answers the door and it is obvious that she has been drinking. She tells him that she doesn't need his help and that he can't see Mrs Giggs as she is out shopping. As he gets back into his car he sees Mrs Giggs at an upstairs window of the house.



Dr Rix isn't sure if action needs to be taken to protect Mrs Giggs, quickly or at all. He is concerned that he is unable to make contact with her and also for Julie's welfare.

If Julie consistently blocks Dr Rix from seeing Mrs Giggs, and he is seriously concerned for her welfare, it might be appropriate to involve social services without Mrs Giggs consent.

Disclosure without consent may be justified if it is not practical to seek the patients consent e.g. because action must be taken quickly, and there is insufficient time to contact the patient

(Paragraph 14)

Dr Rix tries again to make contact with Julie and Mrs Giggs via telephone and Julie answers. He explains his concerns for both of them, and emphasises the urgency of the situation.

Julie agrees that Dr Rix can come to see her at home. While he is there she tells him about her marital and alcohol problems. And also volunteers that she has 'lost her temper' with her mother and needs help in caring for her now that Geoff has gone.

Dr Rix arranges a full carer's needs assessment, an urgent referral for counselling for Julie and at the same time checks that Mrs Giggs is well.