

## Confidentiality: protecting and providing information

Initial consultation: January – 29 February 2008

### *About you*

1. Your name: Dr John Collins MD FRCP Edin
2. Your address: Secretary, Royal College of Physicians of Edinburgh,  
9 Queen Street, Edinburgh EH2 1JQ.
3. Your email address: l.lockhart@rcpe.ac.uk
4. Would you like to be kept up to date about the GMC's Standards consultations?  
  
YES
5. Basis of your response: on behalf of my organisation

The information you supply will be stored by the GMC in accordance with the Data Protection Act 1998 and will be used to analyse the consultation responses and help us to consult more effectively in the future. Any reports published using this information will not contain any personal information. We may provide anonymised responses to the consultation to third parties for quality assurance or approved research projects, on request. No personal information will be provided to a third party.

### Organisational respondents:

12. In which country is your organisation based?:
- a. UK-wide YES
  - b. England
  - c. Scotland
  - d. Wales
  - e. Northern Ireland
  - f. Other (please specify)
13. What is the name of your organisation? Royal College of Physicians of Edinburgh
14. Which of the following categories best describes your organisation? :
- a. Representing patients and the public
  - b. Regulatory body
  - c. Representing medical students
  - d. Representing professionals
  - e. Royal Medical College YES
  - f. Under/post-graduate medical education
  - g. Employer of medical professionals (including NHS bodies)
  - h. Non-medical professional body
  - i. Other (please specify)

## Questions

Bearing in mind the GMC's statutory role, including our UK-wide remit and that our advice is primarily for doctors, we would appreciate your comments on the following questions:

1. Is maintaining confidentiality still an important professional value and a matter for the GMC to issue guidance on, or is it something that can be dealt with by contractual and legal obligations?

Yes. Maintaining confidentiality is a key element in the trust that patients have in doctors. The complexity evident in the consultation paper indicates that it is entirely appropriate that the GMC should continue to provide guidance for medical practitioners on this difficult topic. Legal and contractual obligations are different from professional obligations, and professional discipline is different from an action for breach of confidence/privacy.

2. Should the GMC be producing guidance, given that guidance is issued by a few different bodies (GMC, departments of health, Information Commissioner)?

As the regulatory body for the profession, the GMC should also offer guidance on the standards it will enforce regarding confidentiality.

3. What do you see as the most important confidentiality issues now and in the future which are relevant to doctors and the GMC?

Largely those identified in the guidance from 2004.

Adults with incapacity should be afforded the same protection as anyone else. The assessment of such patients should concentrate on making use of residual capacity whenever possible, and only then involving others in the decision-making process.

The use of health databases and records in medical audit and research is another important area and critical to many quality improvement initiatives. The requirement to seek informed consent for the use of health information that involves little or no contact with patients and with no potential for harm is inappropriate. Current arrangements are confused, and clear guidance from the GMC would be most welcome.

Where there is negligible risk to the individual, an active opt-out system may be worth considering.

4. What have been the big organisational and legal changes in relation to confidentiality since 2000, when we last substantially reviewed our guidance?

Money laundering; confidentiality is becoming more important in the legal world. However, the public interest exception to confidentiality remains equally important. Many of the issues are societal and therefore likely to change for reasons outwith the medical profession's control, which can be a problem in itself.

5. What do you think of the current form of the guidance - for example, should we be more or less specific or detailed in our advice, or about the same?

The current format is a practical, problem based approach, which provides ready answers to specific questions: this should not change.

6. Would a web-based resource of examples or case studies, which could be kept up to date and amended as necessary, be helpful?

This would be an excellent idea.

7. Are there any major omissions in the current core guidance? If so, what are they?

None noted.

8. Is there any text in the existing guidance which is confusing or inaccurate? (Please be as specific as possible.)

Nothing specific.

9. Can you give examples of difficult decisions doctors have to make about confidentiality and the disclosure of information? (This should help us identify issues on which we can give practical advice in the guidance to replace the *Frequently Asked Questions*. Please do suggest solutions to the problems you identify.)

How to act if a young adult reports abuse/sexual abuse but refuses you permission to disclose the abuse to anyone.

10. How might we make our confidentiality guidance more useful and accessible to patients and public?

- 1) Use plain English.
- 2) Put it on a website with examples.

11. How could we make our confidentiality guidance more useful to doctors?

- 1) Put it on a website.
- 2) Include it in medical training and Continuing Professional Development.

Please return this questionnaire to:

Confidentiality Review  
Standards & Ethics Team  
General Medical Council  
Regent's Place  
350 Euston Road  
London NW1 3JN

The deadline for responses is **29 February 2008**.

If you have any queries, please contact us on 020 7189 5404.