

Emergency information sharing - Direct medical care – Privacy Notice



Summary:

There are occasions when intervention is necessary in order to save or protect a patient’s life or to prevent them from serious immediate harm, for instance during a collapse or diabetic coma or serious injury or accident. In many of these circumstances the patient may be unconscious or too ill to communicate. In these circumstances we have an overriding duty to try to protect and treat the patient. If necessary we will share your information and possibly sensitive confidential information with other emergency healthcare services, the police or fire brigade, so that you can receive the best treatment.

The law acknowledges this and provides supporting legal justifications.

Individuals have the right to make pre-determined decisions about the type and extend of care they will receive should they fall ill in the future, these are known as “Advance Directives”. If lodged in your records these will normally be honoured despite the observations in the first paragraph.

<p>1. Data Controller:</p>	<p>Canterbury Medical Practice</p> <p>Patricxbourne Rd, Bridge, Canterbury</p> <p>CT4 5BL</p>
<p>2. Data Protection Officer:</p>	<p>Dr Mark Jones</p> <p>Contact via: ccccg.cmp@nhs.net</p>
<p>3. How does this comply with the Common Law Duty of Confidentiality?</p> <ul style="list-style-type: none"> • <i>Consent</i> <ul style="list-style-type: none"> ○ <i>Implied (e.g. direct care)</i> ○ <i>Explicit (e.g. 2^ouses)</i> • <i>COPI Regulations 2002 (e.g. Reg 5 - “s251”)</i> • <i>“overriding public interest” (to safeguard you or another person)</i> • <i>legal obligation (e.g. court order)</i> 	<p>Consent (implied)</p> <p>This means that it would be reasonable to infer that you agree to the use of the information as long as:</p> <ul style="list-style-type: none"> • We are accessing the information to provide or support your direct care, or are satisfied that the person we are sharing the information with is accessing or receiving it for this purpose • Information is readily available to you, explaining how your information will be used and that you have the right to object • We have no reason to believe that you have objected • We are satisfied that anyone we disclose personal information to understands that we are giving it to them in confidence, which they must respect
<p>4. Purpose of the processing and the lawful basis for the processing</p>	<p>Doctors have a professional responsibility to share data in emergencies to protect their patients or other persons. Often in emergency situations the patient is unable to provide consent.</p>

	<p>To enable healthcare professionals working for CMP to be able provide all relevant and necessary information to another healthcare professional or organisation, when further medical care is required by the data subject, and</p> <ul style="list-style-type: none"> • that data subject is unable to give consent • processing of their data would be necessary to save their life <p>This is a Direct Care purpose. There is a specific legal justification</p> <p>Special category of data (health)</p> <p>Lawful bases: Article 6(1)(d) – Vital Interests</p> <p><i>“processing is necessary to protect the vital interests of the data subject or of another natural person”</i></p> <p>And</p> <p>Article 9(2)(c) <i>“processing is necessary to protect the vital interests of the data subject or of another natural person where the data subject is physically or legally incapable of giving consent”</i></p> <p>Or alternatively</p> <p>Article 9(2)(h) – Provision of health</p> <p><i>‘necessary for the purposes of preventative or occupational medicine for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services...’</i></p> <p>We will also recognise your rights established under UK case law collectively known as the “Common Law Duty of Confidentiality” *</p>
<p>5. Is this: Access to your GP record</p> <ul style="list-style-type: none"> • <i>Extraction of information from your GP record</i> • <i>Access to data held about you by another data controller</i> 	<p>Extraction of information from the GP record</p>
<p>6. The recipient(s), or categories of recipients, of your personal data</p>	<p>Healthcare professionals outside of CMP providing, providing direct medical care to the data subject in an emergency and</p>

	out of hours services at local hospitals, diagnostic and treatment centres.
7. Retention period of the data (or criteria used to determine the retention period)	<p>As determined by the receiving organisation’s data retention policy on medical records</p> <p>The data will be retained in line with the law and national guidance</p>
8. The existence of each of your rights <ul style="list-style-type: none"> - The right to object - The right to access and correct 	<p>Article 6(1)(e) gives the data subject the right to object to some or all of the information being shared with the recipients. Contact the Data Controller or the practice.</p> <p>You also have the right to have an “Advance Directive” placed in your records and brought to the attention of relevant healthcare workers or staff.</p> <p>You have the right to access the data that is being shared and have any inaccuracies corrected. There is no right to have accurate medical records deleted except when ordered by a court of Law. If we share or process your data in an emergency when you have not been able to consent, we will notify you at the earliest opportunity.</p> <p>The source of the information shared in this way is your electronic GP record, and you have rights directly related to that (see EMIS Health – EMIS Web).</p>
9. The right to lodge a complaint with a supervisory authority	<p>You have the right to complain to the Information Commissioner’s Office, you can use this link https://ico.org.uk/global/contact-us/</p> <p>or calling their helpline Tel: 0303 123 1113 (local rate) or 01625 545 745 (national rate)</p> <p>There are National Offices for Scotland, Northern Ireland and Wales,</p> <p>(see ICO website)</p>
<i>The existence of automated decision making, including profiling and information about how decisions are made, the significance and the consequences</i>	No
<i>Further information</i>	This privacy notice applies to all transfers of information (letter, fax, email, telephone etc.) deemed necessary to ensure provision of medical care for the data subject in an emergency situation, in order to protect that data subject’s life, and where the data subject is unable to give consent.

	<p>Appropriate information sharing is an essential part of the provision of safe and effective care. Patients may be put at risk if those who provide their care do not have access to relevant, accurate and up-to-date information about them.</p> <p>An example of this type of processing would be as follows:</p> <p>An individual is admitted to the A & E department of a hospital with life-threatening injuries following a serious road accident, and is unconscious due to brain trauma. The disclosure to the hospital of the individual's medical history, by the GP surgery, is necessary in order to protect his/her vital interests.</p> <p>We follow GMC guidance regarding patient objections to sharing information for direct care, and if a patient cannot be informed, which states:</p> <p><i>"Circumstances may arise in which a patient cannot be informed about the disclosure of personal information, for example in a medical emergency. In such cases, you should pass relevant information promptly to those providing the patient's care."</i></p> <p><i>"If the patient regains the capacity to understand, you should inform them how their personal information was disclosed if it was in a way they would not reasonably expect."</i></p> <p>Further information about GP records and confidentiality can be found on our website under Data Protection:</p> <p>http://www.canterburymedicalpractice.nhs.uk/</p>
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* "Common Law Duty of Confidentiality", common law is not written out in one document like an Act of Parliament. It is a form of law based on previous court cases decided by judges; hence, it is also referred to as 'judge-made' or case law. The law is applied by reference to those previous cases, so common law is also said to be based on precedent.

The general position is that if information is given in circumstances where it is expected that a duty of confidence applies, that information cannot normally be disclosed without the information provider's consent.

In practice, this means that all patient information, whether held on paper, computer, visually or audio recorded, or held in the memory of the professional, must not normally be disclosed without the consent of the patient. It is irrelevant how old the patient is or what the state of their mental health is; the duty still applies.

Three circumstances making disclosure of confidential information lawful are:

- where the individual to whom the information relates has consented;
- where disclosure is in the public interest; and
- where there is a legal duty to do so, for example a court order.