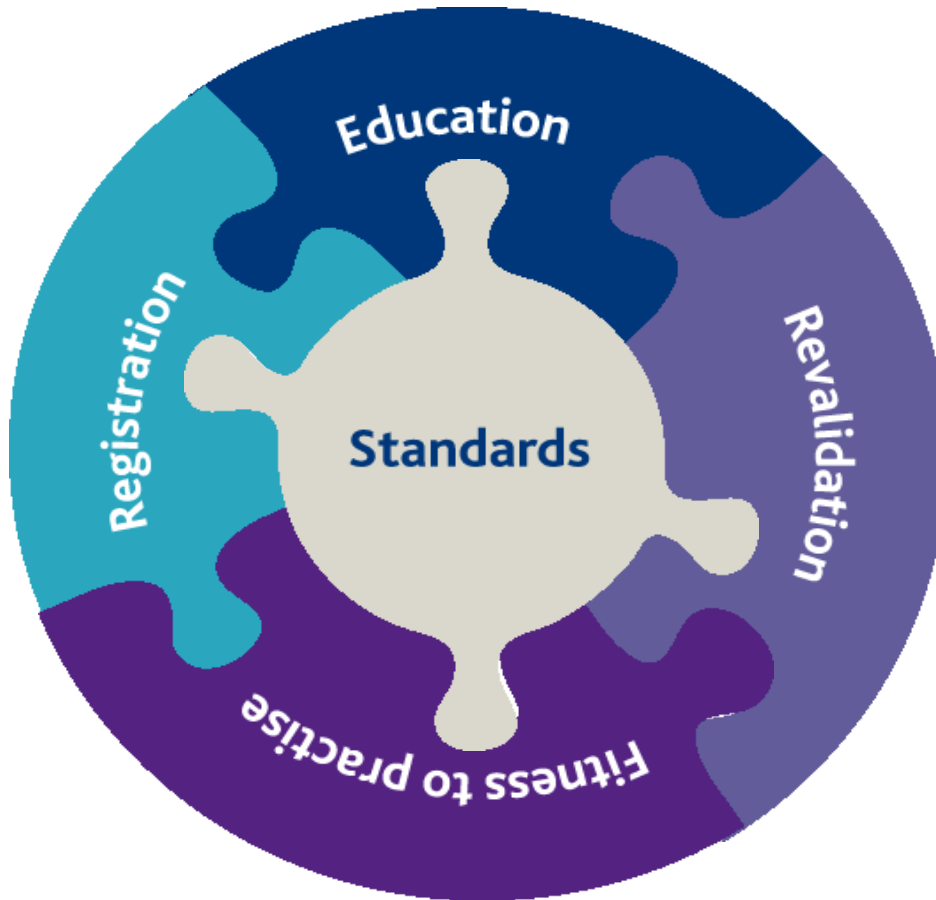


Confidentiality: disclosure of information in the public interest

Fionnula Flannery
Standards and Ethics Team

The GMC's role and functions



The ***Medical Act 1983*** (amended) gives us the power:

‘To give advice to the profession on standards of professional conduct, professional performance and on medical ethics, as the Council think fit.’

Status of our guidance

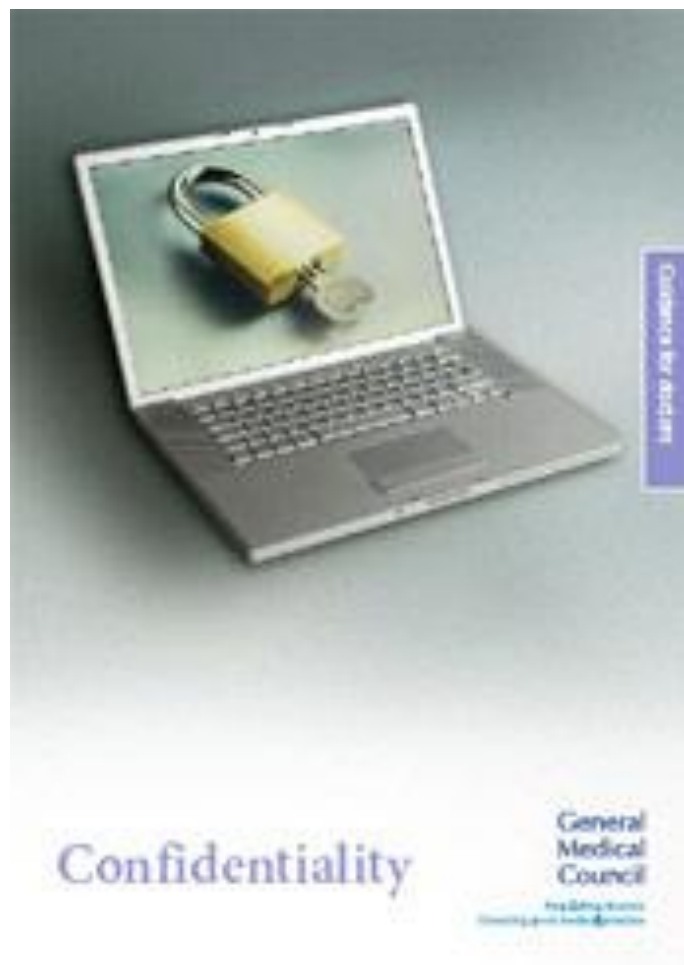
The guidance

- is for **all** doctors, regardless of grade, specialty or UK location
- is consistent with current UK law (and may, if appropriate set a higher standard)
- represents common ground between the profession, public and service providers through extensive consultation

Doctors must

- exercise judgement in applying the principles in their day to day practice
- be prepared to explain and justify their decisions and actions
- demonstrate through revalidation that they work in line with the principles and values set out in the guidance.

Our guidance on confidentiality



- *Reporting concerns about patients to the DVLA or DVA*
- *Disclosing records for financial or administrative purposes*
- *Reporting gunshot and knife wounds*
- *Disclosing information about serious communicable diseases*
- *Disclosing information for insurance, employment and similar purposes*
- *Responding to criticism in the press*

Confidentiality – the UK framework

- Ethical and legal duty – common law, ECHR, data protection
- Important but not absolute
- Information may be disclosed when:
 - Patient gives consent
 - The disclosure is required by law
 - When disclosure is in the best interests of a patient who does not have capacity to make the decision
 - There is an overriding public interest in the disclosure

The public interest

Paragraph 36

'Confidential medical care is recognised in law as being in the public interest. However, there can also be a public interest in disclosing information: to protect individuals or society from risks of serious harm...'

The public interest

Paragraph 37

*'Personal information may, therefore, be disclosed in the public interest, without patients' consent, and in exceptional cases where patients have withheld consent, **if the benefits to an individual or to society of the disclosure outweigh both the public and the patient's interest in keeping the information confidential.***

Concerns about fitness to drive in the UK



- Patient has a legal duty to tell licensing authority about treatment or condition that affects ability to drive
- Doctor should advise patients if their ability to drive is likely to be impaired, and tell them about their duty to tell the DVLA or DVA

Steps doctors should take

- If the patient is incapable of understanding the advice (e.g. because of dementia) the doctor should tell DVLA or DVA immediately
- If patient doesn't accept the diagnosis, or continues to drive against advice, the doctor should take all reasonable steps to persuade them to stop
- If the patient is continuing to drive, the doctor should seek consent to tell the licensing body
- If the patient refuses, the doctor should consider whether disclosure without consent is justified in the public interest

Considering the public interest

- Disclosure of personal information without consent may be justified *'if failure to disclose may expose others to a risk of death or serious harm'*
- Weighing up competing benefits and harms:
 - trust in doctors; respect for patient's privacy and autonomy
 - implications for the patient
 - risks of death or serious harm posed to others
- 'last resort' – after other reasonable efforts to persuade the patient to stop driving have failed

Public consultation

- Revised guidance out for public consultation
25 November 2015 – 10 February 2016
- Draft guidance and questionnaires are on
our website: http://www.gmc-uk.org/guidance/news_consultation/confidentiality2016.asp

General
Medical
Council

Thank you

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Working with doctors Working for patients
