

NHS GG&C Mental Health Service Confidentiality and Consent: Best Practice Guide

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Document Number:	MHS 06
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Approved by:	Mental Health Policy Steering Group
Date approved:	25/10/2024
Date for Review:	31/10/2027
Replaces previous version: [if applicable]	2018 v 2

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1. Introduction and Background

This guide provides advice and guidance for patients, service users, carers, family and friends and staff of NHS Greater Glasgow and Clyde and is to be read in conjunction with one. (NHS GGC Consent Policy on Healthcare assessment, care, and treatment). The term patient and carer are used throughout this guide however they can also be referred as service user, family, and friends.

Mutual expectations around confidentiality should be discussed in conversations between patients, carers, and staff as soon as possible following admission. These mutual expectations should also be reviewed at regular intervals. Where patients give consent to information being shared, this should be done. Although this should be reviewed regularly, consent does not need to be gained before every discussion with a carer. Where patients have given consent for carer involvement, staff should invite and encourage carers to attend any relevant meetings, with services making reasonable adjustments as needed (such as providing carers with the opportunity to attend virtually via an online meeting or via a phone call, as well as considering whether travel support is required for those attending in person). When a patient withdraws consent, carers can still receive non confidential information, for example, general information about the service. Furthermore, staff do not require patient consent to speak to carers, receive information from them, or offer support to them. Additionally, carers have the same right to confidentiality for any information disclosed, and staff must respect this 2. (The Triangle of Care, 2013) – 3. (Royal College of Psychiatrists Carer engagement and Involvement Guidance)

This guidance reflects the 6 key standards within the Triangle of Care, Carers Included: A guide to Best Practice in Mental Health Care in Scotland. The standards are: -

- 1.1 Carers and the essential role they play are identified at first contact or as soon as possible thereafter.
- 1.2 Staff are “carer aware” and trained in carer engagement strategies.
- 1.3 Policy and practice protocols re: confidentiality and sharing information, are in place.
- 1.4 Defined post(s) responsible for carers are in place.¹
- 1.5 A carer introduction to the service and staff is available, with a relevant range of information across the care pathway.
- 1.6 A range of carer support services are available.

The importance and benefits of sharing information with carers, family, and friends

We recognise that if you are caring for a friend or family member the sharing of information between staff, patients and carers is vital to safe and effective care and treatment and can have the following benefits:

¹ [Consent to Treatment Policy and Supporting Documents \(sharepoint.com\)](#)

² [triangle-of-care-a-guide-scotland.pdf \(carers.org\)](#)

³ [carer-engagement-and-involvement-guidance-final.pdf \(rcpsych.ac.uk\)](#)

- 1.7 Agreement at an early date between patients, carers and staff over information sharing can prevent problems from occurring later. Where patients/service users/people with a lived experience may object to this approach then discussions should be had that acknowledge their reasons for wishing to limit the engagement with family/carers in their care.
- 1.8 Carers can provide useful information about progress, such as what is going well or not well, medication side effects and behaviour which is causing concern.
- 1.9 Information for families and carers about symptoms, diagnosis and treatment can offer reassurance and enable them to provide support most effectively.
- 1.10 Paying attention to the needs of all the family may help preserve relationships during periods of difficulty.

It can be helpful to see a patient's problems in the light of their social context. Research has shown that involving carers in treatment can often have a beneficial effect on clinical and social care outcomes and promote recovery.

2. Scope

The following information applies to both inpatients and community mental health services and is for patients, carers and staff of NHS Greater Glasgow and Clyde. This includes organisation is that support carers such as Carer centres across GG&C

3. Sharing Information

Healthcare is a partnership between patients, families, and staff. When people are unwell, it can often be difficult for them to explain to professionals how they feel. It is important for professionals to be able to speak to someone who knows the individual well. Families can often describe concerns about the person's behaviour, recent events and provide background information to help to inform their loved one's support, care, and treatment. Involving family members wherever possible means it is less likely that vital information will be missed and helps families to maintain a supportive relationship with the individual.

Maintaining confidentiality and keeping the best interests of the person in mind is vital, and so is having clear, open channels of communication with those who care for them. People must be able to trust in the professionals treating them and be confident they are acting in their best interests. Effectively engaging with relatives in these circumstances is a core skill for professionals. One of the most important things staff can do is listen to families and carers. This equally applies where the individual has not given their consent to share information and where there is no power of attorney or guardianship order in place. It is important to recognise that families have a unique knowledge of their relative and have vital information that could help with diagnosis and treatment that the person is unable to give themselves.

If a patient wishes to withhold information, then these wishes must be respected by staff but as an area of good practice staff will:

- 3.1 Discuss confidentiality with patients and carers at an early stage and that views on information sharing are recorded and revisited frequently. Carers should be advised of any changes to this.
- 3.2 The patient's willingness to give or withhold consent should be revisited on a regular basis in line with reviews or changes in circumstances as a minimum. The benefits for involving the carer should be discussed with the patient.
- 3.3 The patient's views should be incorporated in care-planning or an advance/personal statement so that this is available to all services likely to meet them, including crisis services. Acknowledgement of the possibility of changes over time being dependent on the individual's mental health at a specific time, adds to the need for a pro-active and nuanced approach.
- 3.4 Staff should discuss and explain that all staff are bound by law and professional codes of conduct and have a duty of confidentiality to both patients and their carer.
- 3.5 Staff should discuss and explain that some information may be shared without consent, for example information needed to safeguard children and/or Adults.
- 3.6 A patient's capacity to consent to information sharing must be regularly reviewed and revised.
- 3.7 Where a Power of Attorney or Guardianship is in place and where a patient has been deemed to lack capacity, carers, named person or next of kin must be actively involved in decision making.
- 3.8 Where a Named Person is identified as part of an advance statement. The named person is actively involved in all discussions in relation to the advanced statement.
- 3.9 A patient's desire to withhold information must be respected by staff other than in some exceptional circumstances. In these circumstances staff will inform you.
- 3.10 Discuss with the patient whether there is information they wish to withhold.
- 3.11 Explain to carers what information can be shared and if information cannot be shared the reasons for this.

4. How can information be shared?

Even when a patient withholds consent, carers must be given enough knowledge to enable them to provide effective care. Carers will be given the opportunity to discuss any difficulties they are experiencing in their caring role with the patients Keyworker/Named Nurse.

Issues around confidentiality should not be used as a reason for not listening to carers or for not discussing fully with patients the need for carers to receive information so that carers can continue to support them. Information should be given to patients and carers in a way that can be readily understood to help them provide care.

Ways in which information can be shared include:

- 4.1 Face to face (verbal)
- 4.2 Digital Virtual Patient Management
- 4.3 Telephone (staff must verify the identity of the caller when providing information by telephone)
- 4.4 Written
 - 4.4.1 Language, if English is not the first language staff must make provisions to provide interpreter service/information leaflets written in the preferred language of the carer.
 - 4.4.2 Age-appropriate information will be provided.

Personal information will not be shared without prior consent from the patient.

Staff have a legal duty not to breach patient's confidentiality.

Staff are duty bound to seek information from relatives/carers regarding the patient's condition.

5. General Information

The provision of general information about mental illness, emotional and practical support does not breach confidentiality.

If a patient refuses to share confidential information staff still have a duty of care to provide information to carers.

Carers should be encouraged to share information about the person they care for.

Staff understand that carers may want to discuss information about the person they care for but do not want them to know.

Staff have a duty of care to carers, who can always speak to staff in confidence. However, if staff must break a carer confidentiality, they will inform them of this, and it will only be for reasons of risk or harm.

Sometimes, patients ask staff not to disclose information and this can be frustrating for carers, especially when they usually provide day to day support to someone during their everyday life. In these cases, staff should give families and carers enough information without personal details being disclosed.

An exception to this could be if carers need certain information to enable them to

continue caring or if they are at risk of harm. If this is the case staff will ensure that carers are given all the information, they need to continue caring or to reduce the risk. It can be helpful to talk about this issue with staff and the person you care for so that a solution can be found that works for everyone.

6. Breaching confidentiality

Maintaining confidentiality in clinical, social work and social care settings is a priority for all professionals. However, the complexity of cases and challenges faced by staff mean situations can arise that are unclear. In situations where there may be a risk to the person or to someone else, it can be appropriate to breach a person's confidentiality. When there is doubt about breaching a person's confidentiality, professionals should consult with their managers and senior staff and record the discussion, decision, and rationale for the decision. This should be clearly documented and placed in the person's file.

7. Good Practice Guidelines

The following checklist has been based on the 'Carers and Confidentiality in Mental Health' leaflet produced by the Partners in Care campaign and published by the Royal College of Psychiatrists. It is designed to assist staff to work closely with carers within the boundaries of current legislation and to help carers understand their rights.

Staff will provide appropriate support should either the patient or carer have communication difficulties. Staff will be able to provide both verbal and written information on the following:

- 5.1 Keyworker/Named Nurse and the role of other staff involved in care and treatment.
- 5.2 The right to a carer needs assessment.
- 5.3 Managing an emergency and how to get help in a crisis
- 5.4 Carer and Young carers help and supports available.
- 5.5 Types of treatment
- 5.6 Medication and side effects
- 5.7 Hospital admissions and care plans if consent is given.
- 5.8 The Mental Health Act
- 5.9 The Care Programme Approach (where applicable)
- 5.10 Services available both in and out of hospital e.g., local Carers Centre, Advocacy
- 5.11 The mental health diagnosis
- 5.12 What behaviour is likely to occur and how to manage it?
- 5.13 Medication – benefits and side effects
- 5.14 Going on pass from hospital
- 5.15 The Discharge pathway (from both inpatient and community services) in line with the Carers (Scotland) Act 2016
- 5.16 Local and national support groups

Carers are helped to understand:

- 5.17 The present situation
- 5.18 Any confidentiality restrictions requested by the patient.
- 5.19 The patient's treatment plan and its aim.
- 5.20 Any written care plan, crisis plan or recovery programme.
- 5.21 The role of each professional involved in the patient's care.
- 5.22 How to access help, including out of hours services and carer's needs assessment

Carers should be involved in:

- 5.23 The admission process
- 5.24 Passes (third party verification how pass went)
- 5.25 Discharge planning

Carers should be given:

- 5.26 The opportunity to see a professional on their own.
- 5.27 The right to their own confidentiality when talking to a professional
- 5.28 Confidence to voice their views and any concerns they may have.
- 5.29 Emotional and practical support

You patient should be encouraged to tell the Keyworker/Named Nurse if they are not being given enough information about care and treatment.

Process for information sharing flow chart (Appendix 1)

8. References

[Carers \(Scotland\) Act 2016](#)

[triangle-of-care-a-guide-scotland.pdf \(carers.org\)](#)

[Royal College of Psychiatrists: Carers and Confidentiality in Mental Health college-report-cr209.pdf \(rcpsych.ac.uk\)](#)

[MHS 06.1 Carers Poster](#)

[CarersConsentAndConfidentiality_2024_0.pdf](#)

[carer-engagement-and-involvement-guidance-final.pdf \(rcpsych.ac.uk\)](#)

[Consent to Treatment Policy and Supporting Documents \(sharepoint.com\)](#)

Appendix 1: Carers, Consent and Confidentiality Flow Chart

