

Carer's Leaflet - Consent and Confidentiality



Capacity and consent to share information

A person who is accessing services can give their permission (consent) for health, social work and social care staff to speak to their families about their health conditions and treatment. However they must have 'capacity' in order to give this consent. Staff will tell you whether your relative or friend has the capacity to give permission for them to share information with you.

In Scotland, everyone over the age of 16 years old is presumed to have capacity to make relevant decisions unless they have been formally assessed as not having the capacity to make some or all decisions about their lives. This is usually formally assessed by a doctor, and families should be included in the discussion.

If your relative has capacity, then they can give consent, or decide to withhold consent, on whether to share their medical information with someone else. A person's consent must be given without pressure from anyone else, and should be fully informed. Health, social work, and social care staff will always ask a person for their consent to share information with their families or carers.

Confidentiality

Everyone has the right to keep their personal information confidential. Confidentiality is respected for all individuals in mental health settings and will only be breached by staff if there is a danger to the person or others. On these occasions, the individual will be advised.

Staff are aware that it is usually in the best interests of a person for their relatives or carers to be involved in care and treatment decisions and planning. In many cases the person will agree with this. However, if they do not consent, staff will talk with you about this and will still listen to your views. Staff understand that you can provide valuable information to inform assessment and treatment of your relative or friend.

Families and confidentiality

If you are a family member/carer trying to discuss your concerns with staff, you may be advised that:

- Your relative has capacity to consent for staff to share their information with you, and staff can discuss your relative's care and treatment fully.
- Your relative has capacity to make the decision and does not consent for their information to be shared with you. Staff cannot breach your relative's right to confidentiality about the aspects of their care and treatment and other relevant information that they do not wish to be shared.
- Your relative does not have capacity to decide about sharing the relevant information with you.

In all situations, and regardless of your relative's consent or capacity, you can give information to the professionals involved and staff will listen to you.

If your relative does not wish to share information

Staff will discuss this with your relative and try to find out why they do not want to include you in their care and treatment. Even when consent is not given to share information, staff can still listen to you. Staff will not be able to share personal information about the person they are looking after, but they can listen and can discuss the situation in general terms with you.

Your relative may agree to partial sharing of information and staff will follow their wishes.

Information sharing will be revisited with your relative at regular intervals as your relative may change their mind at a future point.

If the person you care for does not have capacity to provide consent

In this situation, staff will speak to you about what this means for you and your relative. As part of the Adults with Incapacity (Scotland) Act 2000, staff will review the past and present wishes of your relative to determine whether they can share information.

If someone does not have capacity, staff will continue to listen to relatives and carers, involve you in planning care, and will share information as deemed appropriate.