

Confidentiality AYPH conference

Adolescent Health Group RCGP

Case Study

- Liam, a 13-year-old boy, comes in with a black eye, marched in by his mother who says he's been "getting drunk" at the weekends, and has been in a fight with his friends. How do you handle this?

CASE STUDY

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- What if her boyfriend is 21?

CASE STUDY

- Zoe, a 14 year-old girl, comes to see you requesting advice about contraception. She explains that she is in a steady relationship with her 14-year-old boyfriend and that they are thinking of having sex for the first time.
- Her mother has access to Patient Online. What would you do?

What do the professional codes of practice say about confidentiality?

- The professional codes of practice state that doctors, nurses and other health professionals along with medical secretaries, practice managers and receptionists have a duty not to disclose any information about individual patients without their consent, whatever their age or maturity, except in the most exceptional situations
- Such a situation may arise if the health, safety or welfare of the patient, or others, would otherwise be at grave risk. The decision whether to make a disclosure depends on the degree of current or potential harm. It does not depend on the age of the patient

‘What is Confidentiality’?

- If a professional has a duty of confidentiality, it means that he or she must not disclose anything learned from a person who has consulted him or her, or whom he or she has examined or treated, without that person’s agreement. It should be maintained even if the treatment is not given
- Confidentiality may only be broken in the most exceptional situations where the risk to the health, safety or welfare of the patient, or others, outweighs the right to privacy. The decision whether to break confidentiality depends on the degree of risk of current or potential harm, not on the age of the patient
- Disclosures without the patient’s consent should be kept to the minimum necessary, and anonymised wherever possible. In the majority of circumstances disclosures should be planned and the patient should give consent in advance

What is 'consent'?

- If a patient consents to an examination, tests or treatment, it means that he or she agrees to what is being proposed and understands the reasons for it. Consent must be based on adequate, accurate information being provided about what is intended in a manner that the person can understand
- There is no age limit, as long as they are 'competent'. Any young person, regardless of age, can independently seek medical or nursing advice or care, and give valid consent to medical, surgical or nursing treatment. A young person is said to be competent if the health professional believes he or she is capable of understanding the choices of treatment and their consequences

What is competence?

- A young person must be able to understand and retain the information pertinent to the decision about their care, be able to use this information to consider whether or not they should consent to the intervention offered and be able to communicate their decision to others
- These three points are sometimes known as 'Gillick' competence/Fraser guidelines, and arose from a case in the House of Lords in 1986

What are the Fraser guidelines?

The Fraser guidelines specifically refer to contraception, and refer to the points that a healthcare professional should consider before prescribing or advising on contraception, but the principles also apply to other treatments including abortion

Under the Fraser guidelines a young woman is competent to consent to contraceptive advice or treatment if:

- She understands the doctor's advice
- The doctor cannot persuade her to inform her parents or allow the doctor to inform her parents that she is seeking contraceptive advice
- She is very likely to begin or continue having intercourse with or without contraception
- Unless she receives contraceptive advice or treatment, her physical or mental health or both are likely to suffer
- The young woman's best interests require the doctor to give contraceptive advice, treatment or both without parental consent

Exploitation or Relationship?

Health professionals need to be alert to:

- The competence of the young person. They may not be able to consent if under the influence of drink or drugs, have a learning impairment or are psychologically unwell. Similarly, a young person who is being coerced is not freely consenting to sex
- Power imbalance, for example if there is an age gap of more than five years
- The younger the age, the more cautious HCPs should be about assuming they are competent to consent to sex
- HCPs should share concerns with colleagues who have expertise in child protection, such as named or designated health professionals within the Clinical Commission Group, or the community paediatrician with responsibility for child protection

Do health professionals automatically have to disclose sexual activity in under 13s?

- No. It is at the discretion of the health professional. However sexual activity under 13 years is an offence under the Sexual Offences Act 2003. The GMC recommends that you should discuss these cases with the designated doctor or specialist nurse practitioner within your provider trust or commissioning body, record your discussion and the decision whether or not to disclose and the reasons for it

Managing difficult situations with young people (1)

Disclosure with patient consent:

- Discuss involvement of parents or another appropriate person but respect the young person's final decision
- The only exception to this is if there appears to be grave risk to their own, or others' health, safety or welfare which disclosure to another person or to an external agency might prevent

Managing difficult situations with young people (2)

Disclosure against the patient's consent:

- In the rare situation when a disclosure might be necessary against the young person's wishes, the health professional should address the following:

Key Questions:

- How can the patient be best helped to protect him/herself, or others, from harm?
- Would further outside advice or intervention be helpful? If so, what is the best way of working with the patient towards a voluntary disclosure?
- Is the situation so serious and urgent that disclosure against the patient's wishes should be considered?
- What support or counselling will the patient be offered?

Resources

- The sexual health charity Brook has produced an excellent 'Traffic-light Tool' which provides helpful advice on differentiating between normal teenage sexual relationships and when to suspect abuse.
- <https://www.brook.org.uk/our-work/category/sexual-behaviours-traffic-light-tool>
- Brook has also produced a resource 'Spotting the Signs' along with the British Association for Sexual Health and HIV (BASHH), funded by the Department of Health, which includes a proforma which can be used in conjunction with history taking.
- <http://www.bashh.org/documents/Spotting-the-signs-A%20national%20proforma%20Apr2014.pdf>
- RCGP safeguarding toolkit
- <http://www.rcgp.org.uk/clinical-and-research/toolkits/~media/Files/CIRC/Safeguarding-Children-Toolkit-2014/RCGP-NSPCC-Safeguarding-Children-Toolkit.ashx>
- RCGP/DOH elearning and guidance on online access
- <http://elearning.rcgp.org.uk/mod/page/view.php?id=4775>
- RCGP link to "Talk to us leaflet"
- <http://www.rcgp.org.uk/clinical-and-research/clinical-resources/youth-mental-health/information-for-young-people-and-their-families.aspx>