

RELEASE OF INFORMATION TO THE POLICE

Information should not normally be given to anyone, including the Police, about a patient without their consent. The Police may know the patients name, address and date of birth, but without consent no information can be given except in certain situations:

ROAD TRAFFIC ACCIDENTS

In general, in the absence of a formal Court Order, the Police have no more of a legal right to access confidential information than anybody else; one of the exceptions to this is road traffic accidents.

Under road traffic legislation the Police may require the name and address of someone suspected of some forms of traffic offences (i.e. such as driving whilst under the influence of alcohol or drugs, causing a road traffic accident, failing to stop at the scene of an accident). The duty to disclose information to the Police is limited to information which may assist in the identification of the driver. It does not extend to disclosing details about the patient's injuries, or who else may have been with them.

For example, should the Police ask if there is a Mr Fred Smith been admitted after a car accident, it is acceptable for Staff to confirm if the patient has been admitted, however, no information regarding injuries should be provided.

MISSING PERSONS

If the Police enquire regarding a missing person, each case should be assessed to decide on the correct course of action regarding releasing information. The only possible grounds for disclosure are:

1. The patient's express consent is obtained to disclose the information to the Police (only applies to those patients who have capacity)
2. The disclosure is deemed to be in the patient's immediate best interests (only applies to those patients who lack capacity)
3. The disclosure is in the public interest and is necessary and proportionate to prevent serious harm or death to the patient or another person.*
4. Where a Court orders that the disclosure takes place.

For example:

- 1. The Police would like to know if Mr Smith has attended A&E within the last 24 hours as he is an 82 year old who has dementia and has gone missing from a nursing home.**

In these circumstances it would seem reasonable and in the patients best interest to confirm if the patient has attended as they could be at risk of harm.

- 2. A young woman has not returned home after a night out and Police would like to know if she has attended as her family is concerned.**

If the patient is an in-patient, consent must be sought. We must respect the individual's right to privacy, and in some cases they may not want to be found e.g. domestic abuse. If we confirm that the patient is on one of our wards without seeking consent, a family member they do not want to see may turn up and cause them harm and the Trust would be at fault for breaching their confidentiality.

- 3. A man who suffers with schizophrenia is missing and is known to be armed and dangerous by the Police, as he has already attacked a member of the public.**

In this situation disclosure would be in the public interest as the man could cause harm to members of the public or to himself. However, for this type of request the Police could produce a Section 29 request form if a crime has been committed (see below).

Each request should be judged on the circumstances, and if in doubt do not release any information without discussing your concerns with Information Governance or the on-duty Consultant.

In all cases, you must decide whether the breaching of the overall duty of confidentiality and trust between doctors and patients or any possible harm caused to the patient by disclosing this information is outweighed by the benefits resulting from the disclosure. Generally speaking, this balancing exercise will only favour disclosure where the disclosure is necessary and proportionate (a) to prevent serious harm to the patient or others or (b) to assist in the detection/prevention of a serious crime.

Under 18's are classed as high risk, especially if they are known to have existing Safeguarding concerns. As such, information should be released to the police to assist them in locating the missing child/young person. If a child/young person discloses that they are missing in an attempt to flee the perpetrator of abuse, both the Police and Children's Social Care should be appropriately informed, to ensure the perpetrator is not inadvertently made aware of the child/young person's whereabouts.

* Where disclosure of information is made in the public interest this should be done to prevent serious harm to the individual or to others, an IR1 form should be submitted to highlight the reason for the release and a statement from the police should be obtained to keep a record of the reasons for the disclosure. If you are unsure whether or not to release information please contact the Information Governance team for guidance.

SERIOUS INCIDENTS

If the Police are investigating a serious incident, such as an assault, robbery or murder they may ask for information regarding individuals fitting a certain description.

Information should not be given unless the Police provide us with a **Section 29 request form** (a copy of this can be found on the Information Governance area of the intranet). Requests may be made by the Police, or any agency with the ability to bring forward a prosecution under Section 29 of the Data Protection Act 1998. This asks that the Data Controller (The Trust) considers release of the requested information, without informing the Data Subject (who the information was about). If the Trust is satisfied that the disclosure is necessary and proportionate to the prevention or detection of a serious crime. The form outlines that the Police require information in the prevention and detection of a crime, and must be countersigned by a senior officer (for the Police this is usually an Inspector or above).

If you are unsure about how to deal with a section 29 request please contact the Information Governance team or the Local Security Management Specialist.

TERRORISM

Under terrorism legislation we are obliged to report suspected terrorist activity to the Police.

GUNSHOT & KNIFE WOUNDS

It is generally accepted that the reporting of gun and knife wounds will be within the public interest; however consent should be sought wherever possible.

GMC guidance is that gunshot incidents should be reported to the Police, however the patients identity should not be disclosed without their consent. The Trust has specific guidance that has been produced for this type of incident. Please see the Trusts **Reporting Gunshot Wounds Protocol** for more information.

A knife attack may be sufficient to justify a public interest disclosure of confidential information even where consent isn't given, where it is likely to assist in the prevention and detection of a serious crime. Staff should consider the proportionality of any disclosures and always try to obtain consent where possible.

CHILDREN

In some circumstances, where parents refuse to permit disclosure of information to the Police about a child, clinicians should ultimately act in the best interest of the child. If a child is known to be the subject of a Child Protection Plan, or if the incident warrants the initiation of Child Protection (Section 47) enquiries, information can be shared without the consent of the child/young person or their parent/carer. For example, the Police present at A&E, due to the nature of injuries sustained, they suspect a case of child abuse, but the parents refuse to speak to them. In this instance, information can be shared without consent.

In those instances involving children/young people, where a Section 29 request is submitted by the Police, the process is handled in the same manner as described above (under Serious Incidents).

If you are unsure about a request for information please contact either the Consultant on duty/site manager for authority to release or the Information Governance team for advice.

Andrew Stocks- Information Governance Manager - Ext 3312
Mobile no: 07447 699273

Maria Tute– Information Governance Specialist - Ext 7861
Mobile no: 07917084946

Sarah-Jane Gallimore – Local Security Management Specialist – Ext 3583
Mobile no: 07876745728