

**General
Pharmaceutical
Council**

In practice: Guidance on confidentiality

**Revised
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Contents

About this guidance	4
Confidentiality	6
1. The importance of maintaining confidentiality.....	6
2. Duty of confidentiality	7
3. Protecting information.....	8
Disclosure	9
4. Disclosing confidential information.....	9
5. Disclosing information with consent.....	10
6. Disclosing information without consent.....	11
7. Disclosures required by law	11
8. Disclosures made in the public interest.....	12
Other sources of information	13

The General Pharmaceutical Council is the regulator for pharmacists, pharmacy technicians and registered pharmacies in England, Scotland and Wales. As part of our role, we set the standards that pharmacy professionals have to meet throughout their careers.

About this guidance

This guidance explains to pharmacy professionals (pharmacists and pharmacy technicians) the importance of maintaining confidentiality, and their relevant responsibilities. Pharmacy professionals should use their professional judgement in applying this guidance.

Pharmacy professionals should satisfy themselves that all members of the team are familiar with the issues raised within this guidance and understand their own responsibilities in relation to confidentiality.

If a pharmacy professional is not sure about what they should do in a specific situation, they should always ask for advice from their employer, professional indemnity insurance provider, union, professional body or other pharmacy organisation, or get independent legal advice.

This guidance should be read alongside the **standards for pharmacy professionals** which all pharmacy professionals must meet. This guidance covers standard 7 of the standards for pharmacy professionals, which says:

Pharmacy professionals must respect and maintain a person's confidentiality and privacy



Applying the standard

People trust that their confidentiality and privacy will be maintained by pharmacy professionals, whether in a healthcare setting – such as a hospital, primary care or community pharmacy setting – in person, or online. Maintaining confidentiality is a vital part of the relationship between a pharmacy professional and the person seeking care. People may be reluctant to ask for care if they believe their information may not be kept confidential. The principles of confidentiality still apply after a person's death. There are a number of ways to meet this standard and below are examples of the attitudes and behaviours expected.

People receive safe and effective care when pharmacy professionals:

- understand the importance of managing information responsibly and securely, and apply this to their practice
- reflect on their environment and take steps to maintain the person's privacy and confidentiality
- do not discuss information that can identify the person, when the discussions can be overheard or seen by others not involved in their care
- ensure that everyone in the team understands the need to maintain a person's privacy and confidentiality

- work in partnership with the person when considering whether to share their information, except where this would not be appropriate

This guidance is not intended to cover every aspect of confidentiality and it does not give detailed legal advice. However, it reflects the law in Great Britain at the time of publication.

Pharmacy professionals must make sure that they keep up to date and comply with the law, for example: the Data Protection Act 1998¹ and the Human Rights Act 1998², as well as the common law duty of confidentiality, and with any NHS or employment policies on confidentiality that apply to their particular area of work.

The Data Protection Act 1998 (DPA) covers personal information, including data about the physical or mental health or condition of a person (called a 'data subject' in the DPA). The Information Commissioner's Office (ICO) enforces the DPA and produces advice and guidance on it.

The Human Rights Act 1998 (HRA) incorporates the European Convention on Human Rights (ECHR) into UK law. This, and the Charter of Fundamental Rights of the European Union, gives individuals a right to respect for their private life.

¹ Data Protection Act 1998

www.legislation.gov.uk/ukpga/1998/29/contents

² The Human Rights Act 1998

www.equalityhumanrights.com/en/human-rights/human-rights-act

Confidentiality

1. The importance of maintaining confidentiality

The charter also gives them a right to the protection of their personal data³. These issues can be complex and pharmacy professionals should get legal advice, if they need it.

Pharmacy professionals providing NHS services must also follow NHS codes of practice, and the guidance on handling information in health and care.

We have a **range of guidance** on our website to help pharmacy professionals apply our standards. In particular, when reading this guidance please also see our ***In practice: Guidance on consent***.

- 1.1. Maintaining confidentiality is a vital part of the relationship between a pharmacy professional and a person under their care. A person may be reluctant to ask for advice, or give a pharmacy professional the information they need to provide proper care, if they believe that the pharmacy professional may not keep the information confidential. When pharmacy professionals do not handle confidential information appropriately it can damage public trust and confidence in the pharmacy professions and other healthcare professions.

³ The rights under Article 8 of the HRA are complicated and there are conditions and exceptions. For more information on Article 8 see: www.equalityhumanrights.com/en/human-rights-act/article-8-respect-your-private-and-family-life



2. Duty of confidentiality

- 2.1. Pharmacy professionals have a professional and legal duty to keep confidential the information they obtain during the course of their professional practice. The duty of confidentiality applies to information about any person, whatever their age (see our ***In practice: Guidance on consent***), and continues to apply after a person's death.
- 2.2. A duty of confidentiality arises when one person discloses information to another in circumstances where it is reasonable to expect that the information will be held in confidence. This duty applies to all information that pharmacy professionals obtain during the course of their professional practice.
- 2.3. Confidential information includes:
 - electronic and hard copy data
 - personal details
 - information about a person's medication (prescribed and non-prescribed)
 - other information about a person's medical history, treatment or care that could identify them, and
 - information that people share that is not strictly medical in nature, but that the person disclosing it would expect to be kept confidential
- 2.4. Confidential information does not include:
 - anonymous information – information from which individuals cannot reasonably be identified
 - coded information – information from which individuals cannot reasonably be identified, but which enables information about different people receiving care to be distinguished (for example to identify drug side effects)
 - information that is already legitimately in the public domain

3. Protecting information

3.1 It is essential that pharmacy professionals take steps to protect the confidential information they are given either in the course of their professional practice or because they are a pharmacy professional. They must:

- take all reasonable steps to protect the confidentiality of information they receive, access, store, send or destroy
 - take steps to prevent accidental disclosure of confidential information
 - access confidential information and records only as part of providing treatment and care for a person, or for another permitted purpose
 - make sure that everyone they work with in their pharmacy, hospital, practice or other setting knows about their responsibility to maintain confidentiality
 - raise concerns with the person who is responsible for data control where they work, or with any other appropriate authority, if they find that the security of personal information there is not appropriate
 - continue to protect a person's confidentiality after they have died, subject to disclosures required by law or when it is in the public interest (see below)
- store hard copy and electronic documents, records, registers, prescriptions and other sources of confidential information securely
 - not leave confidential information where it may be seen or accessed by people receiving care, the public or anyone else who should not have access to it
 - not discuss information that can identify people receiving care if the discussions can be overheard or seen by others not involved in their care
 - not disclose information on any websites, internet chat forums or social media that could identify a person (see **[our guidance on demonstrating professionalism online](#)**)



Disclosure

4. Disclosing confidential information

- 4.1 Decisions about disclosing confidential information can be complex. In most situations pharmacy professionals will not have to disclose information immediately. However, there will be limited situations where to delay is not practical, for example if this may cause a risk to another person. Pharmacy professionals should take the necessary steps to satisfy themselves that any disclosure being asked for is appropriate and meets the legal requirements covering confidentiality. If it is practicable, pharmacy professionals may find it useful to get advice on what to do from appropriate sources (without identifying the person under their care).
- 4.2 Maintaining confidentiality is an important duty, but there are circumstances when it may be appropriate to disclose confidential information. These are when a pharmacy professional:
- has the consent of the person under their care, or
 - has to disclose by law, or
 - should do so in the public interest
- 4.3 In the course of their professional practice pharmacy professionals may receive requests for confidential information about people under their care from a variety of people (for example a person's relative, partner or carer) or organisations (for example the police or a healthcare regulator). Decisions about disclosing information should be made on a case-by-case basis and after fully considering all relevant factors.
- 4.4 If a person with capacity (see our ***In practice: Guidance on consent*** for more information on capacity) refuses to give consent for information to be shared with other healthcare professionals involved in providing their care, it may mean that the care they can be provided with is limited. Pharmacy professionals must respect that decision, but tell the person receiving care about the potential implications for their care or treatment.
- 4.5 Pharmacy professionals must respect the wishes of a person with capacity under their care who does not consent to information about them being shared with others, unless the law says they must disclose the information or it is in the public interest to make such a disclosure.
- 4.6 If a pharmacy professional decides to disclose confidential information about a person, they should:
- code the information or make it anonymous, if they do not need to identify the person receiving care

- get the person’s consent to share their information. But they do not need to do this if:
 - disclosure is required by law, or
 - the disclosure can be justified in the public interest⁴, or
 - to do so is impracticable, would put the pharmacy professional or others (including the person receiving treatment or care) at risk of serious harm, or would prejudice the purpose of the disclosure
- disclose only the information needed for the particular purpose
- make sure that, if they disclose confidential information, the people receiving the information know that it is confidential and is to be treated as such
- make appropriate records to show:
 - who the request came from
 - whether they obtained the consent of the person under their care, or their reasons for not doing so
 - whether consent was given or refused, and
 - what they disclosed
- be prepared to justify the decisions and any actions they take

- release the information promptly once they are satisfied what information should be disclosed and have taken all necessary steps to protect confidentiality

5. Disclosing information with consent

- 5.1 Pharmacy professionals should get the person’s consent to share their information unless that would undermine the purpose of disclosure (see section 6).
- 5.2 They should make sure the person in their care understands:
 - what information will be disclosed
 - why information will be disclosed
 - who it will be disclosed to
 - the likely consequences of disclosing and of not disclosing the information
- 5.3 When the reason for sharing confidential information is one that the person receiving care would not reasonably expect, pharmacy professionals must get their explicit consent before disclosure.
- 5.4 If a pharmacy professional is unsure whether they have the person’s consent to share their information, they should contact them and obtain their consent.
- 5.5 Pharmacy professionals should also take the Data Protection Act (DPA) into account in these circumstances, as the requirements of the DPA also need to be followed. Under the DPA, information can be shared when express consent (specific permission to do something) is given.

⁴When considering whether disclosing confidential information without consent may be justified in the public interest, pharmacy professionals must be satisfied that the disclosure would comply with data protection law. Please see the [ICO’s website](#) for more information.

Consent to share information under the duty of confidentiality may not be valid for the purposes of the DPA.

6. Disclosing information without consent

- 6.1. Pharmacy professionals should make every effort to get consent to disclose confidential information. However, if that would undermine the purpose of disclosure (for example, when there is a risk to others) or is not practicable, then they should use the guidance in this section.
- 6.2. Before disclosing information without the consent of the person receiving care, a pharmacy professional should:
 - be satisfied that the law says they have to disclose the information, or that disclosure can be justified as being in the public interest and also meets the requirements of the DPA. (This would be through an exemption or condition that would apply for the information to be processed and disclosed.)
 - if they are unsure about the basis for the request, ask for clarification from the person making the request
 - ask for the request in writing
- 6.3. If necessary, pharmacy professionals should get advice from a relevant body, for example their indemnity insurance provider, union, professional body or other pharmacy organisation, or an independent legal adviser. The ICO can give advice, and has issued guidance, on the requirements of the DPA.

7. Disclosures required by law

- 7.1. There are circumstances when the law says a pharmacy professional must disclose information that they hold. These circumstances include when a person or body is using their powers under the law to ask for the information, for example:
 - the police or another enforcement, prosecuting or regulatory authority
 - a healthcare regulator, such as the GPhC or the GMC
 - an NHS counter-fraud investigation officer
 - a coroner, procurator fiscal, judge or relevant court which orders that the information should be disclosed
- 7.2. These individuals and organisations do not have an automatic right to access all confidential information about people receiving care. Pharmacy professionals must be satisfied they have a legitimate reason for requesting the information.
- 7.3. If necessary, pharmacy professionals should get advice from a relevant body, for example their indemnity insurance provider, union, professional body or other pharmacy organisation or an independent legal adviser.

8. Disclosures made in the public interest

- 8.1. These decisions are complex and must take account of both the person receiving care and public interest in either maintaining or breaching confidentiality.
- 8.2. A pharmacy professional may disclose confidential information when they consider it to be in the public interest to do so, for example if the information is required to prevent:
- a serious crime
 - serious harm to a person receiving care or to a third party, or
 - serious risk to public health
- 8.3. Pharmacy professionals must carefully balance the competing interests of maintaining the confidentiality of the information and the public interest benefit in disclosing the information.
- 8.4. Pharmacy professionals must consider the possible harm that may be caused by not disclosing the information against the potential consequences of disclosing the information. This includes considering how disclosing the information may affect the care of the person and the trust that they have in pharmacy professionals.
- 8.5. When considering whether disclosing confidential information without consent may be justified in the public interest, pharmacy professionals must be satisfied that the disclosure would comply with the requirements of data protection law.
- 8.6. If necessary, pharmacy professionals should get advice from a relevant body, for example their indemnity insurance provider, union, professional body or other pharmacy organisation, or an independent legal adviser.

If you have questions or comments about the content of this guidance, please contact our Policy and Standards Team:

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E14 5LQ**

0203 713 8000

standards@pharmacyregulation.org

We have also produced guidance on other topics that you may find useful:

www.pharmacyregulation.org/standards/guidance

Other sources of information

- The Information Commissioner's Office:

Head office:

**Wycliffe House
Water Lane
Wilmslow
SK9 5AF**

Phone: **0303 123 1113** or **01625 545 745** or **029 2067 8400** (Welsh language line)

Scotland Office:

**45 Melville Street
Edinburgh
EH3 7HL**

Wales Office:

**2nd Floor
Churchill House
Churchill Way
Cardiff
CF10 2HH**

Email: casework@ico.gsi.gov.uk

Website: <http://www.ico.org.uk>

- ICO guidance:

Guide to Data Protection

Overview of the General Data Protection Regulation (GDPR)

- NHS codes of practice for handling information in health and care:

Confidentiality: NHS Code of Practice
(England)

Confidentiality: NHS Code of Practice - supplementary guidance: public interest disclosures (England)

Protecting Patient confidentiality NHS Scotland Code of Practice

Confidentiality: Code of Practice for Health and Social Care in Wales

Other useful links:

- NHS Digital website (England):
<https://digital.nhs.uk/home>
- Information governance for Summary Care Records (England):
<https://digital.nhs.uk/summary-care-records/information-governance>
- Pharmacy Care Record (PCR) (Scotland):
www.communitypharmacy.scot.nhs.uk/core_services/pcr/user_guide.html
www.communitypharmacy.scot.nhs.uk/core_services/pcr/about_pcr.html
- Choose Pharmacy (Wales):
www.wales.nhs.uk/nwis/page/85219
www.gprecord.wales.nhs.uk/home
- The National Data Guardian website:
www.gov.uk/government/organisations/national-data-guardian



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