

Medical Confidentiality A guide for practitioners

The Scenario

A local general practitioner, Dr A, was aware that his patient, Betty, had been sexually abused as a child and that the perpetrator, Colin, also his patient, had been convicted of the offence and had served a prison sentence. Dr A was perturbed when Betty arrived in his surgery claiming that Colin had come back to Bradford and had moved into a household where there were two young children, children of the same age that she was when Colin abused her. He was equally disturbed to find that Colin was again his patient.

The Dilemma

Since medical school, Dr A has believed that the relationship between doctor and patient is akin to that of the confessional, and that any information gained as a result of that relationship is highly confidential. His belief was reinforced when he read in a recent GMC publication on confidentiality, "Patients have a right to expect that you will not disclose any personal information which you learn during the course of your professional duties, unless they give permission."
He recognises, however, that the children in Colin's household are vulnerable and have a right to be protected.

The Answer

The doctor's responsibility to protect children outweighs his responsibility to maintain the confidentiality of the patient. He must make the Child Protection Unit aware of the information.

The Authority

Fortunately, national guidelines are available. The GMC document "Confidentiality," part of a series on "Duties of a Doctor", goes on to describe two situations in which the need to protect children outweighs the duty of confidentiality:

If you believe a patient to be a victim of neglect or physical or sexual abuse, and unable to give or withhold consent to disclosure, you should usually give information to an appropriate responsible person or statutory agency, in order to prevent further harm to the patient.



The Authority (continued)

And;

Disclosures may be necessary in the public interest where a failure to disclose information may expose the patient, or others, to risk of death or serious harm.

The document, "Child Protection: Medical Responsibilities", produced by a joint working party from the BMA, the Department of Health, and the Conference of Medical Royal Colleges, goes further:

The overriding principle in child protection work is to protect the child and secure the best possible outcomes for him or her. Doctors have a legal and ethical duty to maintain confidentiality and should not disclose information without consent unless disclosure can be justified in the public interest (e.g. in the best interest of the child.)

And;

A doctor may be in possession of information relating to a third party and which is of direct relevance to child protection issues e.g. violent behaviour, sexual arousal to children, or information about a known or alleged perpetrator who may pose a continuing risk to children. Disclosure of such information will usually be justified in relation to child protection.

The document "What To Do If You're Worried A Child Is Being Abused" (2003) looks at information-sharing in some detail, considering in turn Common Law, The Data Protection Act 1988, and The Human Rights Act 1998. It concludes, "the law recognises that disclosure of confidential information without consent or a court order may be justified in the public interest to prevent harm to others," and goes on, "The key factor... is proportionality: is the proposed disclosure a proportionate response to the need to protect the welfare of the child?"

Relevant information should therefore be disclosed when a patient is thought to be at risk of abuse or when a patient is thought to be a danger to children. Disclosure should be to one of the statutory agencies, usually social services or the police. These agencies may themselves ask for information relevant to a child protection situation. It is noteworthy that in Bradford, the child protection agencies have a long history of information sharing without unnecessary breaches of confidentiality. In such a sensitive area, however, it is important that a senior member of the medical team should transmit the information. Drs Haigh and Ward are always willing to discuss particular situations.

In summary, when there is a conflict between the right of a patient to confidentiality and the right of a child to be protected from harm, the right of the child must always be paramount.

