

Confidentiality within the Medical Room

The Medical Room (Prep and Senior) provides a safe environment where the nursing team can have private consultations with pupils and staff.

All information given to the nursing team is to be treated as confidential. All records both written and electronic must be kept securely and accessed by them only. There are occasions when members of staff need to be aware of a pupil's medical condition, for example in cases of severe allergies or asthma. A 'notable' is added to a pupils Engage record to facilitate this.

Staff may have access to some medical information to prepare relevant documents and lists for school visits. This information will be relevant for school trips only and therefore limited. The trip leader/designated first aider will meet with a member of the nursing team prior to departure to discuss relevant information.

If a pupil or member of staff is sent home by the nursing team relevant staff are notified but without divulging any confidential medical details. Pupils use an iPad to log in and out of the health centre in Senior school. For staff, line managers will be informed.

If requested, names and times of people having consultations with the nurse may be given to staff, but without any confidential medical information including the reason for the consultation.

Pupils who have sessions with the school counsellors are required to log in and out on the iPad in the health centre in Senior school. This is due to needing to always know a pupil's whereabouts in school. The school counsellor does not need to pass on the content of the session.

The nursing team will meet with the Safeguarding team on a regular basis to discuss pastoral concerns of any pupils. It is recognised that nurses are still bound by their code of confidentiality and must be mindful of this when sharing information.

If the nurse feels that the pupil has raised an issue where they would benefit from support from their teachers, they will encourage them to give consent for the nurse to discuss it with the relevant staff and for the pupils themselves to seek support from other staff where appropriate.

If the nurse feels it is in the child's best interest to breach their confidentiality, for example in cases of child abuse or serious bullying, then they must inform the pupil prior to disclosing anything confidential to the safeguarding team. The nurse must be aware that they may need to justify these actions later to the NMC and/or a court of law.

The nurse must always respect the privacy and dignity of the pupil. This must be taken into consideration during assessment of a pupil's condition and treatment of an injury.

The pupil must be able to feel that they can come to the nurse in total confidence to discuss any issues.

In keeping with the CQC, ISA and BSA guidelines the school is advised to provide a soundproofed area for counselling and medical consultations. The health centre has one of these for the counsellors.

This policy is written with guidance on confidentiality from the RCN (Appendix 1) and the NMC (Appendix 2).
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Appendix 1

Guidelines on Confidentiality Royal college of Nursing

As part of their Professional Code of Conduct, nurses are obliged to uphold medical confidentiality. A breach of confidence by a nurse may render them liable to disciplinary proceedings by the Nursing and Midwifery Council (NMC). Nurses also have a legal (common law and statutory) duty of confidentiality to pupils.

The pupil has legal rights to confidentiality, which depend on their level of development, intelligence, and ability to understand. The nurse will always seek the child's consent to disclose confidential health information to parents and, in appropriate circumstances, other relevant school staff. If consent is withheld, there is a *prima facie* legal duty of confidentiality that forbids disclosure.

Within a school this can cause a conflict of interest and call for certain amount of understanding on both sides. Although employed by the school, the nurse's (and also the school doctor's) obligation is ultimately to the patient. It is necessary to establish what is reasonable information to divulge to a third party on a 'need to know' basis.

It is reasonable to expect that parents/guardians may be informed of cases of illness and accident. But there are some sensitive health matters, about which the pupil may not wish their parents or the school to know. Legally the nurse must respect this, while at the same time trying to persuade the pupil that it will be better for them to discuss the matter with their parents/guardians. These situations often arise about contraception issues, other sexual health matters, and alcohol and drug misuse.

Rarely, if the nurse considers that it is in the pupil's best interests to disclose information to the school or parents, then they must inform the pupil before doing so, and be fully prepared to justify their actions later if necessary. For example, if child abuse is suspected the nurse has a duty to share concerns with the relevant authorities as per local Child Protection procedures.

Every school should have a policy, of which parents and teaching staff are aware, that covers the nurse's professional and ethical obligations, including confidentiality. It is important to remember that the duty of confidentiality to the patient is greater than that owed to the school which employs the nurse. This includes information documented in patient medical records. The only times when this confidentiality may be breached are if:

- The child consents to disclosure in writing
- A Court of Law requires disclosure
- Disclosure is justified in the public interest or in the child's best interests, as in the case of child protection issues.

Appendix 2

Confidentiality Nursing and Midwifery Council (NMC)

As a nurse, midwife, or nursing associate, you owe a duty of confidentiality to all those who are receiving care. This includes making sure that they are informed about their care and that information about them is shared appropriately.

To achieve this, you must:

- respect a person's right to privacy in all aspects of their care
- make sure that people are informed about how and why information is used and shared by those who will be providing care
- respect that a person's right to privacy and confidentiality continues after they have died
- share necessary information with other health and care professionals and agencies only when the interests of patient safety and public protection override the need for confidentiality
- share with people, their families, and their carers, as far as the law allows, the information they want or need to know about their health, care and ongoing treatment sensitively and in a way, they can understand

To trust another person with private and personal information is a significant matter. The person who is in the care of the nurse or midwife has a right to believe that the information given to them in confidence is only used for the purpose for which it was given and will not be disclosed to others without permission.

Records of information belong to the organisation and not the professional staff who make the records. No-one in that organisation has the legal right to access to the information in those records, which remain confidential.

The terms and conditions of employment for all employees not directly involved with people in the care of nurses and midwives, but have access to or handle confidential records, should contain clauses that emphasise the principles of confidentiality. These terms and conditions should clearly show that disciplinary action could result if these principles are not met.

RCN principles of consent extract

Children and young people

It is particularly important that registered nurses working with children and young people understand the laws around capacity, and child and parental consent, including giving and refusing consent for the implementation of any treatment or intervention.

Young people aged 16 -17 are entitled to provide consent for their own medical treatment in the same way as adults. Scottish legislation (Age of legal capacity (Scotland) Act 1991) provides a legal basis for a young person under the age of 16 years to consent on his or her own behalf to any surgical, medical, or dental procedure or treatment where, in the opinion of a qualified medical practitioner attending them, they can understand the nature and possible consequences of the procedure or treatment. These provisions need to be considered in conjunction with the rights of those with parental responsibility and human rights law.

In other circumstances, current case law is based on the view that persons aged under 16 years, may be competent to make decisions about their care and treatment when provided with sufficient information in a suitable format.

This is sometimes referred to as “Consent Gillick” competence. This principle recognises the concept of emerging capacity in children and young people. Cognitive and emotional skills are acquired differentially throughout adolescent development. Whilst decision-making is primarily dependant on information retention and processing, emotional maturity is needed to make balanced, unwavering decisions and to cope with the consequences of those decisions. It is important to assess the child or young person’s maturity and understanding on an individual basis, and to remember that the severity of the consequences of the decision should be considered.

Gillick competent young people can consent to or refuse care, treatment and/or interventions. However, refusal to provide consent can be overridden by a person with parental responsibility or a court in certain circumstances. If more than one person has parental responsibility for the young person, consent by any one such person is sufficient, irrespective of the refusal of any other individual.

Where a child or young person lacks capacity to consent, consent can be given on his or her behalf by any one person with parental responsibility, or by the court. As is the case where individuals are giving consent for themselves, those giving consent on behalf of the child or young person must have the capacity to consent to the intervention in question, be acting voluntarily, and be appropriately informed. The power to consent must be exercised according to the “welfare principle”: that the welfare or best interests’ of the child or young person must be paramount. Even where the child or young person lacks capacity to consent on their own behalf, they must be involved as much as possible in the decision-making processes.

Where necessary the courts can, as with competent children and young people, over-rule a refusal by a person with parental responsibility. It is recommended that certain important decisions, such as sterilisation for contraceptive purposes should be referred to the courts for guidance, even if the person with parental responsibility has consented to the procedure.

Professional accountability

Professional accountability means being personally answerable to the law of the land for all actions or omissions (including what is written or is not written, what advice/information/communication is given or is not given) while fulfilling a contract as a health and social care employee.

Registered nurses must act first and foremost to care for and safeguard those in their care. Registered nurses must display a personal commitment to the standards of practice and behaviours set out in the NMC Code. NMC states that registered nurses must “show professionalism and integrity and work within recognised professional, ethical and legal frameworks” (NMC, 2018).

It should be noted that the standards expected of registered nurses by NMC may be at times higher than the minimum required by law. Legal requirements in negligence cases have historically been based on the standards set by professional bodies for their members, and hence where standards required by professional bodies are rising, it is possible that the legal standards will rise accordingly.

Professional values and competencies required of registered nurses dictate an understanding of current relevant legislation which must be applied in all areas of practice. Where registered nurses lead teams of staff, they must ensure that all team members understand how to apply their practice legally and ethically.

Who should seek consent and when?

The registered nurse providing the treatment, investigation or care is responsible for ensuring that the person has given valid consent before the examination, treatment or care begins. If another health or social care professional has sought and received consent for an intervention, the registered nurse providing the treatment, investigation or care must be assured that valid consent has been provided and recorded before the intervention is undertaken.

Form of consent

The validity of consent does not depend on the form in which it is given. Consent can be expressed in writing, verbally or non-verbally.

In most cases completion of a consent form is not a legal requirement, (exceptions being prescribed forms associated with mental health legislation (Mental Capacity Act 2005, Adults with Incapacity (Scotland) Act 2000, Mental Health (Northern Ireland) Order 1986, Mental Capacity Act (Northern Ireland) 2016) Mental Health (Scotland) Act 2015 and the Human Fertilisation and Embryology Act 1990). Although written forms serve as evidence of consent, the completion of any consent form or documentation must meet with the requirements that constitute valid consent, i.e., the person has the capacity to make the decision, sufficient information has been provided to ensure that consent was “informed”, and that consent has been freely given. Where a person is illiterate or unable to fully complete their signature, but can provide valid consent, they may be able to make a mark on the form to indicate consent. It is good practice to have the mark witnessed by another clinician. If consent has been validly given, the lack of a completed form is no bar to treatment or care.

Duration of consent

When a person provides valid consent for an intervention, that consent remains valid for the duration of the intervention, unless withdrawn by the person during the intervention.

If new information becomes available during the intervention that affect the person's decision to consent, this must be discussed with the person and their consent reaffirmed.

Consent for sharing information

There is a requirement in the NMC Code (NMC, 2015/2018) at paragraph 5 which explicitly requires nurses to respect a person's right to privacy and confidentiality.

When a person discloses personal health information to a health or social care professional, it is generally accepted that care cannot continue unless it is shared with other staff involved in their care. This could include both health and social care staff and administrative staff. Registered nurses must ensure that implied consent to sharing of information is not assumed under any circumstances and that any disclosure of information to others is essential for the provision and continuation of care, and in accordance with the requirements of the Data Protection Act 1998 and the Human Rights Act 1998. The duty of confidentiality applies to both adults and children and young people (as clarified in the Gillick principle).

Should the person state that they do not want information to be shared with anyone, a registered nurse has no permission to do so.

There is however a recognition that the duty of confidentiality is not absolute. In certain situations, a registered nurse could be required to disclose information without the consent of the individual involved. These circumstances may exist where there is a real and serious risk of danger to the public or an identifiable individual, or in the case of a child/young person or where a person with capacity is considered vulnerable. The onus will be on the registered nurse to provide evidence that the absence of consent and a breach of confidentiality meets these specific requirements.

References

[nmc-code.pdf](#)

[School nursing | Children and young people | Royal College of Nursing \(rcn.org.uk\)](#)

[An RCN Toolkit for School Nurses: Supporting your practice to deliver services for children and young people in educational settings | Royal College of Nursing](#)

[bma-access-to-health-records-nov-19.pdf](#)

[Main heading \(www.nhs.uk\)](#)

[Decision making and consent - GMC \(gmc-uk.org\)](#)

<https://learning.nspcc.org.uk/child-protection-system/gillick-competence-fraser-guidelines>

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