Ephedra Healthcare
your local health professionals

SPRING HOUSE MEDICAL CENTRE

Confidentiality Code of Practice Policy

1 Introduction

1.1 Guidance statement

Spring House Medical Centre holds information about patients which must be kept private and confidential.

In some instances, patient records can be very sensitive and may contain information concerning third parties. Patient information must not be given to others unless the patient consents or the disclosure can be justified

1.2 Status

The organisation aims to design and implement policies and procedures that meet the diverse needs of our service and workforce, ensuring that none are placed at a disadvantage over others, in accordance with the Equality Act 2010. Consideration has been given to the impact this policy might have with regard to the individual protected characteristics of those to whom it applies.

This document and any procedures contained within it are non-contractual and may be modified or withdrawn at any time. For the avoidance of doubt, it does not form part of your contract of employment.

1.3 Training and support

The organisation will provide guidance and support to help those to whom it applies to understand their rights and responsibilities under this policy. Additional support will be provided to managers and supervisors to enable them to deal more effectively with matters arising from this policy.

2 Scope

2.1 Who it applies to

This document applies to all employees, partners and directors of the organisation. Other individuals performing functions in relation to the organisation such as agency workers, locums and contractors are encouraged to use it.

Furthermore, it also applies to clinicians who may or may not be employed by the organisation but who are working under the Additional Roles Reimbursement Scheme (ARRS).[1]

[1] Network DES Specification

2.2 Why and how it applies to them

This Code of Practice outlines how the Caldicott Guardian and all Spring House Medical staff will deal with information about its patients. It also reflects the standards that are expected of doctors when they hold or share information about patients, as per GMC Guidance including:

- Confidentiality: Good Practice in Handling Patient Information
- Raising and Acting on Concerns about Patient Safety

3 Glossary of terms

3.1 Personal information

Information about people which doctors learn in a professional capacity and from which individuals can be identified

3.2 Anonymised information

Information from which individuals cannot reasonably be identified. Names, addresses, full postcodes or identification numbers, alone or together or in conjunction with any other information held by or available to the recipient, can be used to identify patients.

3.3 Coded information

Also known as pseudonymised information. Information from which individuals cannot be identified but which enables information about different patients to be distinguished or to link information about the same patients over time (for example, to identify drug side effects).

A 'key' might be retained by the person or service that coded the information so that it can be reconnected with the patient.

3.4 Identifiable information

Information from which a patient can be identified. Their name, address and full postcode will identify a patient; combinations of information may also do so, even if their name and address are not included.

Information consisting of small numbers and rare conditions might also lead to the identification of an individual.

3.5 Consent

Agreement to an action based on knowledge of what the action involves and its likely consequences

3.6 Express consent

Consent which is expressed orally or in writing. Also known as explicit consent

3.7 Implied consent
Consent that can be inferred if the patient has been informed that information is to be disclosed, the purpose and extent of the disclosure and that they have a right to object but have not objected

3.8 Clinical audit
Evaluation of clinical performance against standards or through comparative analysis to inform the management of services

3.9 Disclosure
The provision or passing of information about a patient to anyone other than the patient, regardless of the purpose. Sharing information within healthcare teams is a form of disclosure as is providing personal information about a patient to the police.

3.10 Healthcare team
The healthcare team comprises the people providing clinical services for a patient and the administrative and other staff who support the provision of their care.

3.11 Public interest
The interests of the community or a group within the community or individuals. A balancing exercise is required to decide if disclosure might be justified in the public interest.

4 Patients' right to confidentiality

4.1 Principles
Patients have a right to expect that information about them will be held in confidence by their clinicians and health service providers. Confidentiality is central to trust between clinicians and patients. Without assurances about confidentiality, patients may be reluctant to seek medical attention or to give doctors the information they need to provide good care.

Sharing appropriate information is an essential part of providing efficient, safe and effective care for both the individual patient and the wider community of patients. Information should be readily available to patients and they should clearly understand that unless they object, their personal information may be disclosed for the sake of their own care and for local clinical audit purposes.

Most patients will understand the need for Spring House Medical Centre to be aware of their personal information. However, they are less likely to be aware of disclosures to others for purposes other than their own care (e.g., service planning or medical research). They must therefore be informed about disclosures for purposes they would not reasonably expect.

Although confidentiality is an important duty, it is not absolute because information can be disclosed if:

- It is required by law
- The patient consents – either implicitly for the sake of their own care or expressly for other purposes
- It is justified in the public interest

When disclosing information about a patient, this organisation must:

- Use anonymised or coded information if practicable and if it will serve the purpose
- Be satisfied that the patient:
    - Has ready access to information that explains that their personal information might be disclosed for the sake of their own care, or for local clinical audit, and that they can object; and
    - Has not objected
- Get the patient's express consent if identifiable information is to be disclosed for purposes other than their care or local clinical audit unless the disclosure is required by law or can be justified in the public interest
- Keep disclosures to the absolute minimum, as necessary
- Keep up to date with, and observe, all relevant legal requirements, including the common law and data protection legislation
- Respect and help patients exercise their legal rights to:
    - Be informed about how their information will be used
    - Have access to, or copies of, their health records

When the Caldicott Guardian or Information Governance Lead is satisfied that information should be released, Spring House Medical Centre, should act promptly to disclose all relevant information.

This is often essential in the best interests of the patient or to safeguard the wellbeing of others.

4.2 Protecting information

Personal information about patients must be effectively and always protected against improper disclosure. Many improper disclosures are unintentional and staff at this organisation should not discuss patients where they can be overheard or leave patients' records, either on paper or on screen, where they can be seen by other patients, unauthorised healthcare staff or the public.

All relevant staff must:

- Be conversant with the computer systems, policies and procedures designed to protect patients' privacy (including the use of laptops and portable media storage devices)
- Avoid abusing access privileges
- Only access information which they have a legitimate reason to view

- Raise concerns about patient safety, confidentiality and information governance if issues about the security of personal information within this organisation are identified

Staff responsible for the management of patient records and information should:

- Ensure they are stored securely
- Ensure relevant staff are trained and understand their responsibilities
- Use professional expertise when choosing or developing systems that record, access and send electronic data
- Arrange for administrative (e.g., patient names and addresses) and clinical information to be accessed separately so that sensitive information is not automatically displayed when records are accessed

4.3 Disclosures required by law

- **Disclosures required by statute**

  This organisation must disclose information to satisfy a specific statutory requirement, such as notification of a known or suspected communicable disease. Many regulatory bodies have statutory powers to access patients' records (e.g., as part of their duties to investigate complaints, accidents or health professionals' fitness to practice) and have codes of practice governing how they will access and use personal information.

  The Caldicott Guardian should be satisfied that any disclosure sought is required by law or can be justified as in the public interest. Patients should be informed about such disclosures (unless that would undermine the purpose) even if their consent is not required.

  Should patient records or personal information be requested, but is not required by law (e.g., by a statutory regulator to investigate a healthcare professional's fitness to practice) the patient's express consent must be sought, if practicable, before disclosure.

  If it is not practicable to seek their consent, or a patient refuses to give their consent, the regulatory body involved should be contacted to advise as to whether the disclosure can be justified in the public interest.

- **Disclosures to court or in connection with litigation**

  This organisation must also disclose information if ordered to do so by a judge or presiding officer of a court. The Caldicott Guardian should object to the judge or the presiding officer if attempts are made to compel this organisation to disclose what appear to be irrelevant matters, (e.g., matters relating to relatives who are not involved in the proceedings).

Personal information must not be disclosed to a third party such as a solicitor, police officer or officer of a court without the patient's express consent, unless it is required by law or can be justified as in the public interest.

4.4 Disclosing information with consent

Seeking a patient's consent to the disclosure of information shows respect and is part of good communication between doctors and patients.

Circumstances in which patients may give implied consent to disclosure

- **Sharing information within the healthcare team or with others providing care**

  Most patients understand and accept that information must be shared within healthcare to provide their care. This organisation should ensure that patients are aware that personal information about them will be shared within the organisation (including administrative and other supporting staff) unless they object. Generating awareness can take several forms (e.g., leaflets, posters, websites and face-to-face) but should be tailored to the patients' identified needs wherever practicable.

  This organisation must respect the wishes of any patient who objects to particular information being shared within the healthcare team or others providing care unless disclosure would be justified in the public interest.

  Should a patient object to a disclosure that is considered to be essential to the provision of safe care, it should be explained to them by the Caldicott Guardian or his designated deputy that unless that information is disclosed, they cannot be referred, nor can their treatment be arranged.

  Spring House Medical Centre, must make sure that anyone to whom they disclose personal information understands that it is given to them in confidence which they must respect. All staff members receiving personal information to provide or support care are bound by a legal duty of confidence, whether or not they have contractual or professional obligations to protect confidentiality

  Circumstances may arise where a patient cannot be informed about the disclosure of information, for example because of a medical emergency. In these cases, this organisation must pass relevant information promptly to those providing the patient's care.

  As and when the patient is capable of understanding, they should be informed how their personal information was disclosed, if it were in a way they would not reasonably expect.

- **Local clinical audit**

  Clinical audit is essential to the provision of good care. All doctors in clinical practice have a duty to participate in clinical audit and to contribute to National Confidential Inquiries.

Where an audit is to be undertaken by the team that provided care, or those working to support them, such as clinical audit staff, this organisation may disclose identifiable information, provided they are satisfied that the patient:

- Has ready access to information that explains that their information may be disclosed for local clinical audit, and that they have the right to object; and
- Has not objected

If a patient does object, the Caldicott Guardian- Dr Royce Abrahams should explain why the information is needed and how this may benefit their care. If it is not possible to provide safe care without disclosing information for audit, this and the options open to them should be explained to the patient.

Where clinical audit is to be undertaken by another organisation, patient information should be anonymised or coded wherever that is practicable. If this is not practicable, or anonymised data will not fulfil the requirements of the audit, identifiable data should be disclosed only if the patient's express consent has been obtained.

- **Disclosures for which express consent should be sought**

Express consent is generally needed before the disclosure of identifiable information for purposes such as financial audit and insurance or benefit claims.

Should this organisation be asked to provide information to third parties, (e.g., a patient's insurer or employer, a government department or an agency assessing a claimant's entitlement to benefits), either following an examination or from existing records, staff administering the request should:

- Be satisfied that the patient has sufficient information about the scope, purpose and likely consequences of the examination and disclosure, and the fact that relevant information cannot be concealed or withheld.
- Obtain or have seen written consent to the disclosure from the patient or a person properly authorised to act on the patient's behalf. In this instance an assurance may be accepted from an officer of a government department or agency, or a registered health professional acting on their behalf, that the patient or a person properly authorised to act on their behalf has consented to.
- The patient should be shown, or given a copy of, any report that is written about them for employment or insurance purposes before it is sent, unless:
  - They have already indicated they do not wish to see it
  - Disclosure would be likely to cause serious harm to the patient or anyone else
  - Disclosure would be likely to reveal information about another person who does not consent

If a patient refuses consent, or if it is not practicable to get their consent, disclosure may still be made provided it is required by law or can be justified as in the public interest. Where the purpose is covered by a regulation made under section 251 of the NHS Act 2006, disclosures can also be made without a patient's consent, but not if the patient has objected.

4.5 The public interest

Disclosures in the public interest
Confidential medical care is recognised in law as being in the public interest. However, there can also be a public interest in disclosing information:

- To protect individuals or society from risks of serious harm, such as serious communicable diseases or serious crime; or

- To enable medical research, education or other secondary uses of information that will benefit society over time.

Personal information may be disclosed in the public interest, without the patient's consent, and in exceptional cases where patients have withheld consent, where the benefits to an individual or to society of the disclosure outweigh the public and the patient's interest in keeping the information confidential.

In all cases where disclosure is being considered without the consent of the patient, this organisation must weigh the possible harm (both to the patient and the overall trust between doctors and patients) against the benefits that are likely to arise from the release of information.

Before considering whether a disclosure of personal information 'in the public interest' would be justified, this organisation must be satisfied that identifiable information is necessary for the purpose or that it is not practicable to anonymise or code it. In such cases, the patient's consent should be sought, unless it is not practicable to do so, for example because:

- The patient is not competent to give consent (in which case the patient's welfare attorney, court-appointed deputy, guardian or the patient's relatives, friends or carers should be consulted); or

- Staff have reason to believe that seeking consent would put them or others at risk of serious harm, or

- Seeking consent would be likely to undermine the purpose of the disclosure, (e.g., by prejudicing the prevention or detection of serious crime, or

- Action must be taken quickly (for example in the detection or control of outbreaks of some communicable diseases) and there is insufficient time to contact patients.

This organisation should inform patients that a disclosure will be made in the public interest, even if consent has not been sought, unless to do so:

- Is impracticable; or
- Would put employees or others at risk of serious harm; or

- Would prejudice the purpose of the disclosure

This organisation must append the following within the patient's record:

- The reasons for disclosing information without consent; and
- Any steps taken to seek the patient's consent to inform them about the disclosure: or
- The reasons for not doing so

Research and other secondary uses
Research, epidemiology, public health surveillance, health service planning and education and training are among the important secondary uses made of patient information, each serving important public interests. For many secondary uses, it will be sufficient and practicable to disclose only anonymised or coded information.

When identifiable information is needed, or it is not practicable to remove identifiable information, it will often be possible to obtain patients' express consent.

This organisation may disclose identifiable information without consent if it is required by law, if it is approved under Section 251 of the NHS Act 2006 or if it can be justified as in the public interest and it is either:

- Necessary to use identifiable information, or

- Not practicable to anonymise or code the information and, in either case, not practicable to seek consent (or efforts to seek consent have been unsuccessful)

In considering whether it is practicable to seek consent, this organisation must take account of:

- The age of records and the likely traceability of patients

- The number of records; and

- The possibility of introducing bias because of a low response rate or because particular groups of patients refuse or do not respond to requests to use their information

When considering whether the public interest in disclosures for secondary uses outweighs patients' and the public interest in keeping the information confidential, Spring House Medical Centre must consider:

- The nature of the information to be disclosed

- What use will be made of the information

- How many people will have access to the information

- The confidentiality and security arrangements in place to protect the information from further disclosure

- The advice of the Caldicott Guardian or similar expert adviser who is not directly connected with the use for which disclosure is being considered

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- The potential for distress or harm to patients

When considering applications for support under section 251 of the NHS Act 2006 in England and Wales, the National Information Governance Board considers:

- The feasibility of doing the research or other activity with patients' consent or by using anonymised or coded information, and

- Whether the use of identifiable information would benefit patients or the public sufficiently to outweigh patients' right to privacy. It might not be practicable for this organisation to anonymise or code information or to seek patients' express consent:

    - For the disclosure of identifiable information for important secondary uses, or

    - So that suitable patients can be recruited to clinical trials or other approved research projects

  If that is the case:

    - Identifiable information may be sent to a 'safe haven' where they exist and have the capabilities and are otherwise suitable to process the information (including anonymising or coding it) and to manage the disclosure of information for secondary uses; or, if that is not practicable

    - The task of anonymising or coding the information or seeking patients' consent to disclosure can be delegated to someone incorporated into this organisation on a temporary basis and bound by legal and contractual obligations of confidentiality.

  Spring House Medical Centre, should only disclose identifiable information for research if that research is approved by a Research Ethics Committee. This organisation should alert the Research Ethics Committees to disclosures of identifiable information without consent when applying for approval for research projects.

Disclosures to protect the patient

It may be appropriate to encourage patients to consent to disclosures that this organisation considers necessary for their protection, and to warn them of the risks of refusing to consent, but the organisation should usually abide by a competent adult patient's refusal to consent to disclosure even if their decision leaves them, but nobody else, at risk of serious harm.

This organisation should endeavour to provide patients with the information and support they need to make decisions in their own interests (e.g., by arranging contact with relevant external agencies or organisations).

Disclosure without consent may be justified if it is not practicable to seek a patient's consent. Additional information is available from GMC – Using and Disclosing Patient Information for Direct Care.

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Disclosures to protect others

The disclosure of personal information about a patient without consent may be justified in the public interest if the failure to disclose may expose others to a risk of death or serious harm. Spring House Medical Centre should still seek the patient's consent to disclosure if practicable and consider any reasons given for refusal.

Such a situation might arise, for example, when a disclosure would be likely to assist in the prevention, detection or prosecution of serious crime, especially crimes against the person. When victims of violence refuse police assistance, disclosure may still be justified if others remain at risk, (e.g., from someone who is prepared to use weapons, or from domestic violence when children or others may be at risk).

If a patient's refusal to consent to disclosure leaves others exposed to a risk so serious that it outweighs the patient's and the public interest in maintaining confidentiality, or if it is not practicable or safe to seek the patient's consent, this organisation should disclose the information promptly to an appropriate person or authority. Spring House Medical Centre, should inform the patient before disclosing the information, if practicable and safe, even if they intend to disclose without their consent.

This organisation should participate in those procedures set up to protect the public from violent and sex offenders and co-operate with requests for relevant information about patients who may pose a risk of serious harm to others.

Additional information is available from GMC – Disclosures for the Protection of Patients and Others.

Disclosures about patients who lack capacity to consent

When making decisions about whether to disclose information about a patient who lacks capacity, this organisation must:

- Make the care of the patient the primary concern
- Respect the patient's dignity and privacy, and
- Support and encourage the patient to be involved, as far as they want and are able, in decisions about disclosure of their personal information

This organisation must also consider:

- Whether the patient's lack of capacity is permanent or temporary and, if temporary, whether the decision to disclose could reasonably wait until they regain capacity
- Any evidence of the patient's previously expressed preferences
- The views of anyone the patient asks Spring House Medical Centre to consult, or who has legal authority to make a decision on their behalf or has been appointed to represent them

- The views of people close to the patient on the patient's preferences, feelings, beliefs and values and whether they consider the proposed disclosure to be in the patient's best interests, and

- What this organisation know about the patient's wishes, feelings, beliefs and values.

If a patient who lacks capacity asks this organisation not to disclose personal information about their condition or treatment, they should be requested to allow an appropriate person to be involved in the consultation. Should they refuse, and Spring House Medical Centre] is convinced that it is essential in their best interests, the relevant information should be disclosed to an appropriate person or authority. In such an instance this organisation should tell the patient before disclosing the information and, if appropriate, seek and carefully consider the views of an advocate or carer, documenting in the patient's record the discussions and the reasons for deciding to disclose the information.

Although personal information may need to be shared with a patient's relatives, friends or carers to enable this organisation to assess the patient's best interests, this does not mean they have a general right of access to the patient's records or to have irrelevant information (e.g., about the patient's past healthcare). Spring House Medical Centre should also share relevant personal information with anyone who is authorised to make decisions on behalf of, or who is appointed to support and represent, a mentally incapacitated patient.

This guidance should be read in conjunction with the organisation's Consent Guidance and appropriate safeguarding policies.

Disclosures when a patient may be a victim of neglect or abuse
If this organisation believes that a patient may be a victim of neglect or physical, sexual or emotional abuse and that they lack capacity to consent to disclosure, they must give information promptly to an appropriate responsible person or authority, if they believe that the disclosure is in the patient's best interests or necessary to protect others from a risk of serious harm.

If this organisation believes that the disclosure of information is not in the best interests of a neglected or abused patient, they should discuss the issues with an experienced colleague. If it is decided not to disclose information, the patient's record should have an entry that details the discussions and the reasons for deciding not to disclose and be prepared to justify the decision.

5 Reporting and sharing of information

5.1 Notifying the Care Quality Commission (CQC)

Notifying the CQC of allegation of abuse
The registered Information Governance Lead – The Practice Manager or the Caldicott Guardian – Dr Naomi Silk at Spring House Medical Centre, are responsible for notifying the CQC without delay about allegations of abuse including:

- Any suspicion, concern or allegation from any source that a person using the service has been or is being abused or is abusing another person (of any age), including:

- Details of the possible victim(s), where this is known, including:
    - A unique identifier or code for the person
    - The date they were or will be admitted to the service
    - Their age group
    - Their gender
    - Their ethnicity
    - Any disability
    - Any religion or belief
    - Their sexual orientation
    - All relevant dates and circumstances, using unique identifiers and codes where relevant
    - Anything Spring House Medical Centre has already done about the incident

- A unique identifier or code for the actual or possible abusers, together with, where it is known:
    - The personal information listed above
    - Their relationship to the abused person

- A unique identifier or code for any person who has or may have been abused by a person using the service, together with (where known):
    - The same personal information listed above
    - Their relationship to the abused person

- The person who originally expressed the suspicion, concern or allegation (using a unique identifier or code)

Where the appropriate person is unavailable, for any reason, the practice manager will be responsible for reporting the allegation to the CQC. Appropriate CQC reporting forms are available from the CQC website.

Sharing information with a patient's partner, carers, relatives or friends
Early discussions with the patient (especially if the patient has fluctuating or diminished capacity or is likely to lose capacity, even temporarily) should try to establish what information they want this organisation to share, who with and in what circumstances. Such discussions can help to avoid disclosures that a patient would object to and misunderstandings with or causing offence to anyone the patient would want information to be shared with.

If a patient lacks capacity, Spring House Medical Centre share relevant information in accordance with the advice in the patients who lack capacity section.

Unless they indicate otherwise, it is reasonable to assume that a patient would want those closest to them to be kept informed of their general condition and prognosis.

In the event someone close to the patient wishes to discuss their concerns about the patient's health, this organisation should make it clear to them that, while it is not a breach of patient confidentiality to listen to their concerns, it cannot be guaranteed that the patient will NOT be

informed of the conversation (e.g., a clinician might need to share with a patient information received from others if it has influenced the assessment and treatment of the patient).

5.2 Reporting concerns about patients to the DVLA

The Driver and Vehicle and Licensing Agency (DVLA) is legally responsible for deciding if a person is medically unfit to drive. This means it needs to know if a driving licence holder has a condition or is undergoing treatment that may now, or in the future, affect their safety as a driver.

This organisation should seek the advice of the DVLA's medical adviser if not sure whether a patient may be unfit to drive. Any decision that they are fit should be kept under review, particularly if the patient's condition or treatments change.

The DVLA's Guidance for Medical Professionals includes information about a variety of disorders and conditions that can impair a patient's fitness to drive. The driver is legally responsible for informing the DVLA about such a condition or treatment. However, if a patient has such a condition, this organisation should explain to the patient:

- That the condition may affect their ability to drive (if the patient is incapable of understanding this advice, for example, because of dementia, this organisation should inform the DVLA immediately), and

- That they have a legal duty to inform the DVLA about the condition.

If a patient refuses to accept the diagnosis, or the effect of the condition on their ability to drive, this organisation may suggest that they seek a second opinion and help arrange for them to do so. They should advise the patient not to drive in the meantime.

If a patient continues to drive when they may not be fit to do so, Spring House Medical Centre, should make every reasonable effort to persuade them to stop. As long as the patient agrees, this organisation may discuss the concerns with their relatives, friends or carers. If Spring House Medical Centre, does not manage to persuade the patient to stop driving or discovers that they are continuing to drive against advice, the DVLA should be contacted immediately and any relevant medical information disclosed, in confidence, to the medical adviser.

Before contacting the DVLA, this organisation should try to inform the patient of the decision to disclose personal information. The patient should be informed in writing of the disclosure.

5.3 Disclosing records for financial and administrative purposes

This organisation should ensure that financial and administrative information is recorded separately from clinical information. If a request to disclose information about patients for financial or administrative purposes is received, this should be provided, if practicable, in anonymised or coded form, if that will serve the purpose.

If identifiable information is needed, Spring House Medical Centre should, if practicable, seek the patient's express consent before disclosure. Patients should be advised of the nature and purpose of the disclosures made for financial and administrative purposes if necessary.

If a patient objects, and Spring House Medical Centre are satisfied that it is not possible to comply with the patient's wishes and still provide care, this should be explained to the patient.

Before any disclosure is made, this organisation should be satisfied that any parties who will have access to the information are bound by a duty of confidentiality not to disclose it further.

5.4 Disclosing information about serious communicable diseases

Confidentiality is important to all patients. Those who have, or may have, a serious communicable disease might be particularly concerned about their privacy. This organisation should make sure that information held, or control about a patient's infection status, is always effectively protected against improper disclosure.

All patients are entitled to good standards of care, regardless of their status, what disease they might have or how they acquired it.

Healthcare workers who have or may have a serious communicable disease
Good Medical Practice states that:

'You should protect your patients, your colleagues and yourself by being immunised against common serious communicable diseases where vaccines are available'.

If any staff know that they have, or think that they might have, a serious condition that could be passed on to patients, or if their judgement or performance could be affected by a condition or its treatment, they must consult a suitably qualified colleague. They must ask for and follow the advice of the colleague about investigations, treatment and changes to their practice considered necessary. They must not rely on their own assessment of the risk posed to patients.

This organisation's staff should raise any reasonable concerns they have about any healthcare worker who has a serious communicable disease and practises, or has practised, in a way that places patients at risk of infection. They should inform the healthcare worker's employing or contracting body of their concerns, preferably through its occupational health service or, where appropriate, their regulatory body.

They should inform the healthcare worker before passing on the information should it be practicable and safe to do so.

Patients who are diagnosed with a serious communicable disease
This organisation should make sure information is readily available to patients explaining that personal information about them will be shared within the healthcare team, including administrative and other staff who support the provision of care, unless they object, and why this is necessary.

If a patient refuses to allow this organisation to inform a third party of their infection status, Spring House Medical Centre, must respect their wishes unless they consider that failure to disclose the information will put healthcare workers or other patients at risk of infection.

Informing sexual contacts of patients with a serious communicable disease
This organisation may disclose information to a known sexual contact of a patient with a sexually transmitted serious communicable disease if they have reason to think that they are at risk of infection and that the patient has not informed them and cannot be persuaded to do so.

In such circumstances, Spring House Medical Centre should tell the patient before the disclosure is made, if it is practicable and safe to do so. This organisation must be prepared to justify a decision to disclose personal information without consent. Tracing contacts and notifying partners should be done through the normal GP; the identity of the patient should not be disclosed, if practicable.

For information: In this guidance, the term 'serious communicable disease' applies to any disease that can be transmitted from human to human and that can result in death or serious illness. It particularly applies to, but is not limited to, HIV, tuberculosis and hepatitis B and C.

The NHS (Venereal Diseases) Regulations 1974 state that various NHS bodies in England and Wales must:

"Take all necessary steps to secure that any information capable of identifying an individual... with respect to persons examined or treated for any sexually transmitted disease shall not be disclosed except:

- *To communicate that information to a medical practitioner, or to a person employed under the direction of a medical practitioner in connection with the treatment of persons suffering from such disease or the prevention of the spread thereof, and*

- *For the purpose of such treatment and prevention."*

There are different interpretations of the Regulations and Directions and concerns about their compatibility with the European Convention on Human Rights. There have been concerns that a strict interpretation would prevent the disclosure of relevant information, except to other doctors or those working under their supervision, even with the patient's consent or to known sexual contacts in the public interest.

The GMC view is that the Regulations and Directions do not preclude disclosure if it would otherwise be lawful at common law, for example with the patient's consent or in the public interest without consent.

5.5 Disclosing information for insurance, employment and similar purposes

The first duty of a doctor registered with the GMC is to make the care of their patient their first concern. The term 'patient' in this guidance also refers to employees, clients, athletes and anyone else whose personal information Spring House Medical Centre, holds or has access to, whether or not it cares for them in a traditional therapeutic relationship.

There are many circumstances in which a doctor might be asked to disclose information, either following an examination of a patient or from existing records, and in which they face 'dual obligations.'

Usually, dual obligations arise when a doctor works for, is contracted by, or otherwise provides services to:

- A patient's employer (as an occupational health doctor)
- An insurance company
- An agency assessing a claimant's entitlement to benefits

- The police (as a police surgeon)
- The armed forces
- The prison service
- A sports team or association

Alternatively, a person or organisation that there has previously been no direct relationship with, such as a patient's employer or insurance company, might ask for a medical report or information about a patient. This organisation might be offered payment for the service, giving rise to an obligation in addition to the one owed to the patient.

Extent of the disclosure
Spring House Medical Centre should disclose only information relevant to the request for disclosure which would not usually entail disclosure of a patient's full record. Exceptions to this general rule include benefit claims and litigation. The full record may be relevant to some benefits paid by government departments or agencies.

A solicitor may need to see their client's whole record to assess which parts are relevant, for example, to personal injury claims. If the claim goes ahead, the person the claim is made against may ask for copies of important documents which could include records containing the patient's medical history.

Under court rules in England and Wales, they can see all the patient's health records. The solicitor should explain this to the patient.

Writing reports
When drafting a report, Spring House Medical Centre must:

- Ensure that it is not false or misleading and reasonable steps should be taken to verify the information in the report which must contain all relevant information
- Complete and send the report without unreasonable delay
- Restrict the report to areas in which this organisation has direct experience or relevant knowledge
- Ensure that any opinion this organisation include is balanced and include the facts or assumptions on which it is based

If any of the exceptions apply, as much of the report should be disclosed as possible. The Department for Work and Pensions publishes further advice about reports for benefits purposes – DWP Factual Medical Reports – Guidance for Healthcare Professionals.

5.6 Disclosing information for education and training purposes

The use of information about patients is essential to the education and training of medical and other healthcare students and trainees. For most of these uses, anonymised information will be sufficient and should be used whenever practicable.

When it is necessary to use identifiable information about a patient, or it is not practicable to anonymise information, Spring House Medical Centre should seek the patient's consent before disclosing it. They should ensure that the patient is under no pressure to consent.

Any impression that their care depends on giving consent should be avoided.

- **Publishing case studies**

  It may be difficult to anonymise case studies about patients while retaining enough detail to make publication useful. Simply changing a patient's name will often not anonymise the information if other identifying details are included such as age, sex, location or a detailed account of the patient's illness and treatment.

  If the information cannot be anonymised, the patient's consent should be obtained before disclosure. When seeking the patient's consent,] must provide them with enough information about the nature and purpose of the disclosure to enable them to make an informed decision. This should include a description of the information to be disclosed and an indication of how it will be used, for example, whether it will be published in a journal or shown at a medical conference.

  This organisation must then disclose that information only for the purposes for which the patient has given consent. If for any reason Spring House Medical Centre cannot obtain a patient's consent, they will need to consider whether publication can be justified in the public interest.

  This organisation should respect a patient's refusal to consent to the publication of their identifiable information.

- **Patients who lack capacity**

  This organisation should not disclose personal information for education and training purposes about patients who lack capacity if they can practicably use information about other patients instead.

  If this organisation wishes to disclose personal information about a patient who lacks capacity but who is likely to regain capacity, they should, if practicable, wait and seek their consent later. Spring House Medical Centre may disclose personal information about a patient who lacks capacity to consent if disclosure will benefit or is in the best interests of the patient, or if it is justified in the public interest.

  In the absence of any indication about the preferences of a patient who lacks capacity:

  - Information should not be published from which they can be identified, but
  - Disclosure of personal information to medical and other healthcare students and trainees to the extent necessary for their education and training may be undertaken.

  This organisation should consider whether the work needed to anonymise or code the information or to seek patients' consent is reasonably practicable in all the circumstances. Only if unreasonable effort is required should it be considered whether the disclosure of identifiable information is justified in the public interest.

If it is not practicable to anonymise or code the information or to seek or obtain patients' consent without unreasonable effort, and the likelihood of distress or harm to patients is negligible, disclosure for an important secondary purpose may be proportionate. This organisation should respect patients' objections to disclosure.

In this context 'trainees' refers to registered medical practitioners in training grades while 'students' refers to undergraduates pursuing a medical degree. This organisation must give patients the information they want or need about the extent to which students may be involved in their care and of their right to refuse to take part in teaching.

5.7 Responding to criticism in the press

Clinicians are sometimes criticised in the press by their patients or by someone their patients have a close personal relationship with. The criticism can include inaccurate or misleading details of the clinician's diagnosis, treatment or behaviour. Although this can be frustrating or distressing, it does not relieve Spring House Medical Centre of their duty to respect patients' confidentiality.

Disclosures of patient information without consent can undermine the public's trust in the profession as well as patients' trust. This organisation must not put information obtained in confidence about a patient in the public domain without that patient's express consent.

Disputes between patients and clinicians conducted in the media often serve no practical purpose; they can prolong or intensify conflict and may undermine public confidence in the profession, even if they do not involve the disclosure of personal information without consent. This organisation should usually limit public response to press reports to an explanation of the legal and professional duty of confidentiality.

In certain circumstances, press reports might cause patients to be concerned about Spring House Medical Centre. In such cases it may be appropriate to give general information about normal practice. No personal information about a patient should be revealed, or an account of their care given, without their consent.

6 Additional guidance from the GMC

The GMC has also published guidance which explains how the principles described in this document apply in the following situations that doctors often encounter or may find hard to deal with:

- Reporting concerns about patients to the DVLA
- Disclosing records for financial and administrative purposes
- Disclosing information about serious communicable diseases
- Disclosing information for insurance, employment, and similar purposes
- Disclosing information for education and training purposes
- Responding to criticism in the press
- Reporting gunshot and knife wounds