

# CHINESE WHISPERS – LISTEN, DO YOU WANT TO KNOW A SECRET

A Presentation by  
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about  
Confidentiality



# Sensitive Information about YOU

- How sensitive is information about you?
- What do wish to remain 'secret' about yourself?
- What personal information about yourself would you tell your 'employer'?
- What personal information would you tell your 'doctor'?
- What personal information would you tell a member of your immediate family?
- An exercise is available on the KingfisherPM.com web site

# Definition of Confidentiality

- **Hippocratic Oath**

- “whether in connection with my professional practice or not, whatever I see or hear in the life of men, which ought not to be spoken abroad, I will not divulge as reckoning that all such should be kept secret.”

- **Declaration of Geneva 1947 as amended 1968**

- “I will respect the secrets which are confided in me, even after the patient has died.”

- **General Medical Council - December 1993**

- “Doctors have a duty not to disclose to any third party information about an individual that they have learned in their professional capacity, directly from a patient or indirectly, except in certain exceptional circumstances.”

# Confidentiality - 21 Point Action Plan

1. Confidentiality Policy
2. GP & Staff Contract 'Bond'
3. Practice based Complaints Procedure
4. Induction and Training
5. Data Protection Act 1998
6. Patient – Right of Access
7. Access to Medical Reports Act -Third Party Access 'consent'
8. Location of Telephones
9. Patient Call systems
10. Safe Haven – Fax Machine
11. Secure records storage
12. GP's Terms of Service covering both Computer or Paper Records
13. Bogus Callers
14. Personnel and Payroll Records
15. Computer Password Access [Rights & Levels]
16. Server Access Control
17. Privacy of Consultation
18. Practice Patients Charter
19. Infectious Diseases
20. General Medical Council - Ethical and Legal issues] –
21. Cauldicott Guardian

# Data Protection Act 1998

## • The Eight Principles

1. Data shall be obtained and processed fairly and lawfully
  2. Data held for specified purposes
  3. No disclosure incompatible with specified purposes
  4. Data held shall be relevant and not excessive
  5. Data shall be accurate and up to date
  6. No other data shall be held
  7. Security against unauthorised access
  8. Rights of access to data held
- “Terms of Service require proper medical records to be kept on the forms provided”

# Patient Confidentiality – Is it actually possible?

## • Verbal Breaches

- Being Overheard
- Speaking too loudly
- Staff talking in earshot
- Being told at surgery
- Names announced
- Telephone calls
- Chinese Whispers



## • Visual breaches

- Looking at VDU
- Leaving VDU visible
- Being seen at surgery
- Records handled
- Records left in boxes
- Video cameras
- Referral letters
- Private Reports



# The Right to Withhold Information

- **A doctor can withhold information**
- From a patient if might be prejudicial to or harm a patient's mental and physical health to reveal a confidence [quality of life]
- From a parent or guardian if a child is capable of understanding the significance of their medical treatment – Gillick Competence
- From a third party if a patient has not given written consent to see his or her records.
- From the Police if patient is involved in serious crime and there is **no** risk to the public.

# The Legal Position on Access

- NHS Medical Records are owned by the **Health Authority**, but it does not have a right of access.
- Where access is refused a Court may issue a **Court Order** to permit access.
- **Data Protection Act 1998** - allows right of access to computer data and manual records.
- **Access to Medical Reports Act 1988** - allows access to reports prepared for employment or insurance purposes.
- **Access to Health Records Act 1990** - allowed a right of access to health records after 1990 and is now superseded by the new Data Protection Act.



# Certain Exceptional Circumstances

## **ACCESS to a patient's records can take place:-**

- Where the patient **consents**
- In compliance with a **Court Order**
- To a patient's close family when it is '**undesirable**' to seek the patient's consent.
- Where the doctor has an '**overriding duty**' to society
- In **communications** with other health professionals
- Anonymously for the purposes of '**medical research**'
- Where the information is required by '**due legal process**' e.g. statutory duty, such as Notifiable Diseases

# Terms of Service for Doctors

## • Original Regulations

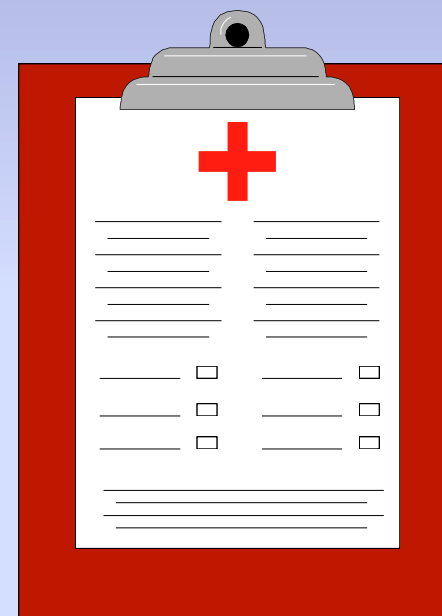
- A doctor shall
- keep adequate records of the illnesses and treatment of his patients on the forms supplied to him for the purpose by the 'Health Authority'
- forward such records to the 'Health Authority on request as soon as possible
- forward the records relating to someone who has died

## • New Provisions

- A doctor shall
- keep adequate records of the illnesses and treatment of his patients on the forms supplied to him for the purpose by the 'Health Authority'
- or by way of computerised records
- or in a combination of those ways.
- Permission should be sought for shredding old records.

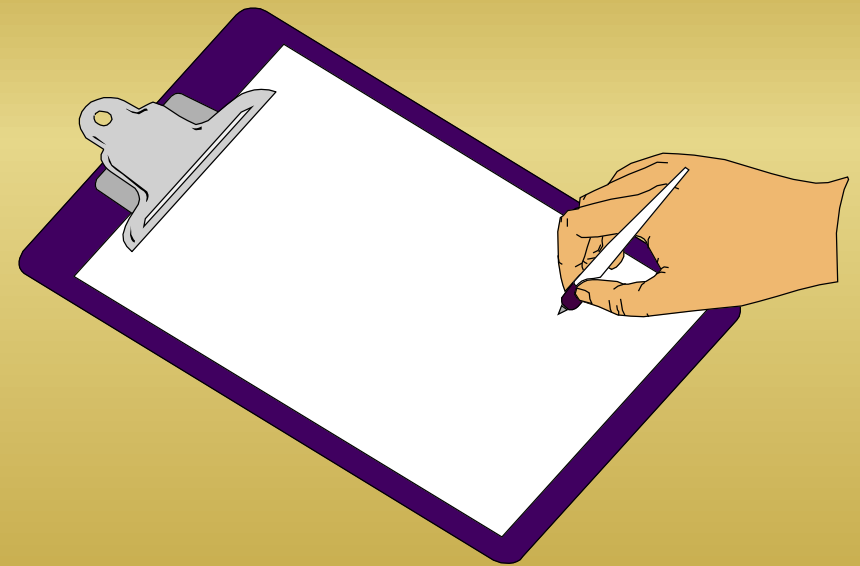
# Data Protection Act 1998

- Access to 'records' relating to the living, without a date restriction, whether on computer or manually held. [40 days]
- No disclosure if likely to cause serious physical or mental health harm .
- Must be intelligible, & might need a glossary. [Reading alone is free]
- Right to correct inaccuracies.
- Right to charge access fees, £10 to £50.
- Right to absolute confidentiality.



# Access to Medical Reports Act 1988

- A Patient has a right of Access to any report prepared for employment or insurance purposes
- The report should be prepared by doctor normally responsible for patient's care
- Private Fees are payable



# EXERCISE – When Might A Confidence be Broken?

- Serious Illness - Tell relative if Quality of Life, mental & physical health affected
- Below Age of Consent - Yes, but not above the age of reason [Gillick Competence]
- Mentally Handicapped - Tell only appointed or nominated Carer
- Fitness to Work - Not directly to Employer without patient's consent
- Involvement in Serious Crime - Need not divulge, advised to take legal advice
- Passing on Information - Yes to other doctors / nurses, if relevant
- Patient Handling Own Record - No
- Pregnancy - Take great care about telling third parties [parents, etc.].
- Medical Research - Anonymous aggregated information only
- Bogus Callers - Definitely Not
- Test Results – give to recognised Callers - only with great care - not recommended
- Staff Records - Keep separately - no open discussion between colleagues
- Attending the Surgery - No
- Tannoy Announcements - No
- Medical Reports - not without consent
- Reasons for seeing doctor - Do not ask
- Reasons for Home Visit – Yes, problem?
- Reporting a Sudden Death - Coroner
- Reporting Infectious Disease - Yes
- Access to Records - only within Acts

# British Medical Association's Confidentiality Checklist

- ☞ Train all staff properly and reinforce the message regularly.
- ☞ Design waiting area so that people cannot overhear or see what they should not.
- ☞ Patient's should not be able to read another patient's record on a computer screen.
- ☞ Mobile phone may be less secure than an ordinary phone.
- ☞ When sending a fax, the receiving machine should be in a secure place.
- ☞ Do not discuss clinical matters with a colleague in public.
- ☞ Check the identity of phone callers who request information by calling them back.
- ☞ Take expert advice when connecting a computer to an external network.
- ☞ Seek Legal advice if disclosure is sought in circumstances that are unusual.

# **EXERCISE**

## **Whom can you share information with?**

- Anyone
- The Patient
- A Patient's close relatives
- A Child's Divorced Parents
- A Patient's 'approved' Carer
- A Foster Parent or Guardian
- Members of Practice staff
- The Practice Nurse
- Another Doctor
- A Consultant
- A Health Authority official
- A Pharmacist
- A Dentist
- A Health Visitor
- A District Nurse
- A Midwife
- A Solicitor
- The Police
- A Court of Law
- Insurance Company
- A Patient's Employer

# NOTIFIABLE INFECTIOUS DISEASES

- Public Health (Control of Disease) Act 1984
- Cholera - Plague
- Relapsing Fever
- Smallpox - Typhus
- Public Health (Infectious Diseases) Regulations 1998
- Acute Encephalitis
- Acute Poliomyelitis
- Anthrax - Diphtheria
- Dysentery - Food Poisoning
- Leprosy - Leptospirosis
- Malana -
- Measles -
- Meningitis
- Meningococcal Septicaemia
- Mumps - Ophthalmia Neonatorum
- Paratyphoid Fever
- Rabies - Rubella
- Scarlet Fever - Tetanus
- Tuberculosis - Typhoid Fever
- Viral Haemorrhagic Fever
- Viral Hepatitis
- Whooping Cough
- Yellow Fever