

## **Consultation on revised guidance on confidentiality**

### **Contents**

1. Introduction .....	2
2. Background .....	4
3. Reviewing the guidance.....	5
4. Proposed changes to the guidance .....	5
5. Next steps.....	6

## 1. Introduction

### About this consultation

- 1.1 We are the Health and Care Professions Council (HCPC). Through this consultation we are seeking the views of stakeholders on our draft revised guidance on confidentiality.
- 1.2 The guidance document, entitled 'Confidentiality – guidance for registrants' was first published in June 2008. We have recently reviewed the guidance in order to make sure that it remains up to date and useful for our registrants and other stakeholders. We also want to make sure that the guidance takes account of recent changes to the HCPC standards of conduct, performance and ethics.
- 1.3 This document explains the background to the guidance as well as the approach we took in reviewing the guidance and the changes we are proposing as a result.
- 1.4 This consultation will be of particular interest to HCPC registrants and prospective registrants; and may also be of interest to professional bodies; education providers; students; and service users and carers.
- 1.5 This consultation will run from **3 October 2016 to 13 January 2017**.

### About this document

- 1.6 This document is divided into five sections.
  - **Section 1** introduces the document.
  - **Section 2** provides background to the guidance on confidentiality.
  - **Section 3** explains our approach in reviewing the guidance.
  - **Section 4** summarises the changes we are proposing.
  - **Section 5** sets out the next steps following the consultation.

### About us

- 1.7 We are a regulator and were set up to protect the public. To do this, we keep a Register of professionals who meet our standards for their professional skills and behaviour. Individuals on our Register are called 'registrants'.
- 1.8 We currently regulate 16 professions.
  - Arts therapists
  - Biomedical scientists

- Chiropodists / podiatrists
- Clinical scientists
- Dietitians
- Hearing aid dispensers
- Occupational therapists
- Operating department practitioners
- Orthoptists
- Paramedics
- Physiotherapists
- Practitioner psychologists
- Prosthetists / orthotists
- Radiographers
- Social workers in England
- Speech and language therapists

### **Consultation questions**

1.9 We would welcome your response to this consultation. We have listed some consultation questions below to help you. These questions are not exhaustive and we would also welcome your comments on any related issue. Please provide reasons alongside your answers where possible.

Q1. Is the revised guidance clear and easy to understand? If not, how could we improve it?

Q2. Could any parts of the guidance be reworded or removed?

Q3. Is there any additional guidance needed?

Q4. Do you have any other comments on the revised guidance?

### **How to respond to the consultation**

1.10 The consultation closes on 13 January 2017. We look forward to receiving your comments.

1.11 You can respond to this consultation in one of the following ways:

- By completing our easy-to-use [online survey](#)
- By emailing us at: [consultation@hcpc-uk.org](mailto:consultation@hcpc-uk.org)
- By writing to us at:

Consultation on revised guidance on confidentiality  
Policy and Standards Department  
The Health and Care Professions Council

Park House  
184 Kennington Park Road  
London  
SE11 4BU  
Fax: +44(0)20 7820 9684

- 1.12 Please note that we do not normally accept responses by telephone or in person. We ask that consultation responses are made in writing to ensure that we can accurately record what the respondent would like to say. However, if you are unable to respond in writing please contact us on +44 (0)20 7840 9815 to discuss any reasonable adjustments which would help you to respond.
- 1.13 **Please contact us to request a copy of this document in an alternative format, or in Welsh.**
- 1.14 If you would prefer we do not make your response public, please indicate this when you respond.

## **2. Background**

- 2.1 We first published the document ‘Confidentiality – guidance for registrants’ in June 2008<sup>1</sup>. The aim was to provide advice for registrants about some of the issues relating to how they handle and share information about service users.
- 2.2 The guidance does not cover every situation where problems or challenges relating to confidentiality might come up, but does summarise some of the most important issues and provides key principles which registrants should think about and apply in their practice.
- 2.3 In addition, the guidance is not designed to replace local procedures and is intended to complement guidance and good practice available from other organisations, including employers and professional bodies.

### **Standards of conduct, performance and ethics**

- 2.4 A standard on respecting confidentiality is included in the HCPC standards of conduct, performance and ethics<sup>2</sup>. These standards set out our expectations of registrants’ behaviour, including their communication with service users; interaction with colleagues; and ethical decision making.
- 2.5 In January 2016, following a large-scale review and public consultation, we published revised standards of conduct, performance and ethics. They state the following with regard to confidentiality:

---

<sup>1</sup> The current version of ‘Confidentiality – guidance for registrants’ can be found on our website: <http://www.hcpc-uk.org/publications/brochures/index.asp?id=164>

<sup>2</sup> The standards of conduct, performance and ethics are available on our website: <http://www.hcpc-uk.org/aboutregistration/standards/standardsofconductperformanceandethics/>

‘5.1 You must treat information about service users as confidential.’

‘5.2 You must only disclose confidential information if:

- you have permission;
- the law allows this;
- it is in the service user’s best interests; or
- it is in the public interest, such as if it is necessary to protect public safety or prevent harm to other people.’

2.6 Among other things, we want to make sure that the guidance on confidentiality reflects these standards and helps registrants meet the expectations we have set out.

### **3. Reviewing the guidance**

3.1 We undertook a review of the guidance on confidentiality in 2016, in order to make sure that it remains clear, helpful and up to date with the relevant legal principles. As part of this we did the following:

- obtained legal advice on any changes to current legislation and/or case law regarding confidentiality;
- considered where amendments needed to be made in line with the revised standards of conduct, performance and ethics;
- considered the findings of a literature review carried out by the General Medical Council during a review of their own confidentiality guidance<sup>3</sup>;
- reviewed standards and guidance produced by other health and social care regulators relating to confidentiality and use of service user information;
- examined a sample of HCPC fitness to practise hearing decisions where the allegations were related to a breach of confidentiality; and
- reviewed past queries received by the Policy and Standards department from registrants and other stakeholders on issues relating to confidentiality.

3.2 The changes we are proposing to make are summarised in the next section.

### **4. Proposed changes to the guidance**

4.1 We used the current version of the guidance as the basis for the proposed revision, and we have not made any major amendments in terms of its general structure or the main topics it addresses.

4.2 The changes we are proposing are primarily aimed at increasing the clarity and usefulness of the guidance. A summary of these is set out below:

---

<sup>3</sup> The literature review examines public and professional attitudes towards confidentiality of healthcare data. Further information and a link to the full report are available here: <http://www.gmc-uk.org/about/research/27704.asp>

- We have updated references to the standards of conduct, performance and ethics to reflect the revised standards published in January 2016.
- We have clarified the definition of 'consent' by a service user to the use or disclosure of confidential information – in that it must be voluntary, informed and given by an individual with the capacity to make the decision.
- We have strengthened references to advice and guidance from other organisations such as professional bodies, emphasising that the HCPC guidance cannot cover all issues or situations.
- We have added guidance on a small number of topics which we often receive queries about, including electronic records and sharing information about children and young people.
- We have reordered sections of the guidance to make it clearer.
- We have made other editing amendments for clarity throughout the document.

## **5. Next steps**

- 5.1 Once the consultation period has finished, we will analyse the responses we have received. We will then publish a document detailing the comments received and explaining the decisions we have taken as a result, including any further amendments needed. This will be available on our website.
- 5.2 We intend to publish a revised version of the guidance in mid 2017.