

About the RCPCH

The Royal College of Paediatrics and Child Health (RCPCH) is responsible for training and examining paediatricians. The College has over 17,000 members in the UK and internationally and sets standards for professional and postgraduate education. We work to transform child health through knowledge, research and expertise, to improve the health and wellbeing of infants, children and young people across the world.

RCPCH response to the Illustrative draft Code of Practice on information sharing under Parts 4 and 5 of the Children and Young People (Scotland) Act 2014

Comments

This Code of Practice is addressed to persons exercising functions under Parts 4 and 5 of the Act and who may provide information when exercising those functions, namely:

- *health boards;*
- *local authorities;*
- *proprietors and managers of independent and grant-aided schools and secure accommodation services;*
- *Scottish Ministers (of which the Scottish Prison Service forms part); and bodies and persons listed in schedules 2 and 3 to the Act.*

Therefore it may not apply to the RCPCH as a body, but practising paediatricians need to be familiar with the code of practice when approached for information by the named person. In clinical practice, it is likely that most requests for information will come from health visitors.

The draft code of practice is intended to ensure compliance with the legal duties when sharing information under Parts 4 and 5, particularly data protection law, human rights law and the law of confidentiality.

As such, the code of practice is written in legal jargon, with references to various schedules in the Data Protection Act, which will be incomprehensible to many clinicians. The emphasis is on seeking explicit consent before sharing sensitive information unless certain requirements of the Data Protection Act are met. This can lead many clinicians to delay sharing information until consent is obtained. Within this draft code of practice, sections of paragraphs 13 and 16 spell out the circumstances when the clinician can share information without consent. The emphasis is still to inform before and after sharing information. Relevant legislation is explained from paragraphs 19 onwards. In paragraph 28, the reader is referred to The Information Commissioner's Office "Data Sharing Code of Practice" which '*provides detailed guidance on the factors to consider when sharing information. Annex 1 to the Code provides detailed information on the data protection principles. The persons to whom this Code of Practice is addressed must make themselves familiar with the Code of Practice and apply it.*'

Chapter 5 in the ICO's Data Sharing Code of Practice provides a useful list of factors to consider when deciding to share personal data. It might be more pertinent to list this in the illustrative draft code of practice, rather than provide the link to a fifty-nine page document.

Despite its name, there are no 'illustrations' of practice. It might be useful to illustrate the code of practice with some examples of practice. Clinical scenarios would make the document more relevant to busy clinicians. Otherwise, the very legalist document would be a deterrent rather than a help in clinical practice. The Scottish Government will also need to set up a professional helpline to guide practitioners through the legislative quagmire.

For further information about any aspect of this consultation response, please contact Professor Steve Turner, Officer for Scotland at: s.w.turner@abdn.ac.uk