



HPC Confidentiality: guidance for registrants

Response from the College of Occupational Therapists

Introduction

The College of Occupational Therapists (COT) is pleased to provide a response to The Health Professional Council's consultation on confidentiality which has been assisted by the College's Ethics committee.

The COT represents over 29,000 occupational therapists who are either working or studying across the United Kingdom. The college also supports a number of support workers who are known as associate members. Occupational therapists (OTs) work in the NHS, primary care settings, Local Authority Social Services and Housing Departments, schools and a range of vocational and employment rehabilitation services.

Occupational Therapists are regulated by the Health Professions Council, and work with individuals of all ages with a wide range of occupational problems resulting from physical, mental, social or developmental difficulties. The philosophy of occupation therapy is founded on the concept of occupation as a crucial element of health and well-being. Practice is based on holistic, client centred care.

General Comments

The comments describing confidentiality need to reflect the broader domains of practice where registrants work which includes social care, housing departments, job centres, and the independent and voluntary sector.

Most members of the public, when dealing with a healthcare professional, will expect that a range of information will be shared with other health professionals in order for them to receive the services or treatment that is required (implied consent). This differentiation should be made more clear in the definition in order to identify that a service user/patient consents to all or partial disclosure of information about themselves i.e. they may consent to share medical details but not financial information; or consent to share with other professionals but not with family members.

At the outset of a confidentiality dialogue with a service user/patient it may be helpful to ascertain what information they wish to be shared with the team dealing with their case, and what they would not. This should be made very clear in the patient/service user's documentation. A signed agreement at the outset made with the patient /service user explaining with whom and what information they wished to be shared would be seen as best minimum practice, and should be reviewed regularly as best practice.

Much of what is discussed under confidentiality also applies to issues of consent and we need to be clear that these are separate but overlapping matters and in many parts of the document these two issues have been conflated.

Issues of consent and capacity to consent have been well covered in recent legislation but not referenced in this document.



Many statutory organisations will have their own confidentiality policies, which may involve forms which patients/service users have to sign to indicate to staff who they wish information to be shared with or not.

If a registrant is abiding by their employers confidentiality policy which may conflict with that of the HPCs; whose will have primacy in a disciplinary situation?

Child Protection

The document needs to be much clearer when confidentiality can be breached in light of child protection issues. This matter is referred to in passing and needs to have greater prominence as there is some confusion amongst professionals about this as it is one where the child's safety comes first.

There is now also a duty to share information in relation to sexual offenders of young people following the 'Soham murders' and advice on this from the HPC should be included in order that the appropriate level of information is shared in order that health professionals do not feel frightened of a disciplinary, rather than share information in this situation. This should be far more explicit in the section on 'Public interest disclosure' to be of assistance to registrants.

The principles of confidentiality are well made within the document. However if reference is to be made to confidentiality and the law then the relevant Act should be quoted and referenced. It should also reflect the range of law affecting confidentiality and children, e.g. 'Gillick competence'.

Liaison with other professionals

The example provided under this section has given the College some cause for debate as this conflicts with advice that we provide within our own Code of Ethics.

If an occupational therapist was working either in the statutory or independent sector, the COT's Code of ethics states that where there are two or more occupational therapists working with/treating the same patient/service user then we would expect there to be liaison to agree which aspect of treatment each is leading on.

We have recently seen increasing numbers of parents wanting separate independent assessments from different therapists for Special Educational Needs Tribunals. Disagreements between therapists, health authorities, and local education authorities are more common place when professionals working with the same child and family do not communicate.

Clarity is required between contract law and best professional practice that the HPC would support. This would be extremely helpful in the current climate.

The requirements of the Common Assessment Framework for children may help with this dilemma but it is one where some helpful advice proffered by the HPC may be useful in discussion with the professional bodies.

Conclusion

Main points are:

- The need for clear differentiation between confidentiality and consent
- Reference to related legislation in all four UK countries
- Further advice is required in relation to child protection and confidentiality
- Further advice on liaison with professionals in respect of independent assessments and contract law and best practice.

The College found this consultation stimulating and one where further debate will I expect continue in our Ethics Committee. The College would be happy to participate in further discussions relating to child protection and confidentiality if the HPC decides that further guidance is required.

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