

Background

Recording patient consultations for teaching purposes is a recognised and valued part of education in general practice (GP) to help both GP trainees and qualified GPs develop their communication and consulting skills. Now that the range of primary care professionals is expanding, the technique may also be increasingly used by other clinicians. This advice is intended to help GP practices maintain this learning activity whilst ensuring they meet their responsibilities within the current guidance for information governance, including the recently introduced General Data Protection Regulation (GDPR).

This guidance is mainly intended for GP trainees, hence the reference throughout to GP trainees. The same procedure should be used by any other clinician within a practice recording patient consultations.

Guiding Principles

1. All recorded consultations must be accompanied by a valid signed consent form.
2. Only patients who are competent to consent can have their consultations recorded. Consultations with children require signed parental/guardian consent. Special care should be taken with the consent procedure where there might be issues with competency to consent or potential language barriers.
3. Recordings of consultations should be handled with the same level of security as patient record files. Recording devices must not be left unattended during the recording process.
4. NHS Scotland Policy since 2012 has been that recording devices should be encrypted, with exceptions that cover specific types of equipment that can't and old equipment. Old unencryptable equipment should be replaced as soon as possible.
5. Recordings of consultations should only be taken outside the practice for the purpose of being viewed at a training event. A secure encrypted device must be used.
6. Recordings of consultations should not include any examination of the patient where clothing needs to be removed. Adjustments to clothing may be allowable e.g. removing a hat or rolling up a sleeve but not exposing more intimate body areas.

Process for obtaining and recording patient consent

1. All practices where consultations might be recorded should have a notice in their reception and/or waiting room areas stating that patient consultations might be recorded for training purposes and

- that there is a choice as to whether or not patients wish to be recorded without that choice impacting on the provision of their health care. (Appendix A - example of such a notice).
2. GP trainees should identify in advance the times at which they intend to record patient consultations. Last minute arrangements should be discouraged wherever possible.
 3. Wherever possible, patients should be made aware at the time of booking their appointment that, should the patient agree, the doctor concerned seeks to record the consultation.
 4. Where the facilities exist for this, when the patient arrives at the practice, they should be diverted to speak to a receptionist (as opposed to registering their arrival at an automatic booking device). The receptionist should give the patient information about the purpose for recording their consultation and then, should the patient agree, ask them to sign the consent form. (Appendix B - example of a consent form).
 5. The receptionist will ask the patient to return to the reception desk after the consultation to sign the consent form again to ensure that they are still happy for the consultation to have been recorded. If, for any reason, this does not happen the recording should be deleted the same day.
 6. Patients need to be made aware that they can withdraw consent at any time following this, either verbally or in writing, and it is good practice to confirm that the consultation has been deleted.
 7. Only patients who are competent to consent can have their consultations recorded. Consultations with children require signed parental/guardian consent. Special care should be taken with the consent procedure where there might be issues with competency to consent or potential language barriers.
 8. Informed consent should mean that the patient understands that:
 - the recording might be stored by a secure encrypted method until the training event has taken place or for no longer than 3 months, whichever is the shortest period, unless there is a justifiable exception.
 - the recording will only be used for training purposes, including assessment of the doctor, usually within the practice building between trainer and trainee. Sometimes teaching sessions may be held outside the practice in a group setting where the recording may be viewed by other trainers and trainees.
 - that the recording may be used for Trainer skill development in benchmarking their assessments of trainees.
 - if a training session is being held outside the practice, the recording will be transported via a secure, encrypted method. This recording will be deleted after the GP training session.
 - the patient can request that the recording is stopped at any stage during the consultation.
 - that the patient can withdraw consent at any time even after completion of the consent form.
 - the recording in the practice will be erased after the time period specified above unless written consent is obtained from the patient to extend the specified period.
 9. Where applicable, practices might wish to consider providing information material covering these issues and potentially in languages other than English.
 10. Individual patient consent forms should be scanned on to the patient's electronic notes record after the GP trainee has completed their surgery. Additionally, a note should be made about the anticipated retention period for the recording.

Security of recorded consultations

1. Recordings of consultations should be handled with the same level of security as patient record files. It should be recognised that there is a potential risk of breach of confidentiality with any recorded consultation and procedures need to be in place to minimise this.
2. The practice should maintain a dedicated recording device for the sole purpose of recording consultations. Personal smartphones or tablets must NOT be used.
3. The practice should maintain an asset log detailing all recorded consultations that are being stored on any secure encrypted device or drive. (Appendix C - example of an asset log).
4. Storage of Data must comply with current GDPR guidance.
5. According to individual practice requirements, when not in use, recording equipment should be stored in a lockable container at the practice. Any person accessing that recording equipment should sign it in and out. This advice is intended to prevent theft of the equipment rather than to secure the recorded consultations as they should never be left on the recording equipment.
6. Where possible, practices may wish to devise a process whereby a member of staff is responsible for access to the recording equipment, including the sign-in and sign-out process, and takes responsibility for deleting any consultations on the recording equipment after use.
7. Consultations should not be stored on the recording equipment itself and should be transferred as soon as possible to a secure encrypted device/drive. Practices may wish to consider who takes the responsibility for this – be it the GP trainee or a designated member of staff.
8. The length of time that a recording can be stored on the secure encrypted device/drive is as specified in the previous section.
9. Secure encrypted devices must be used when a GP trainee needs to take a recorded consultation outside the practice. This should only happen for training purposes. After the training session has finished, the consultation should be deleted from the encrypted device.
10. Providing that the practice has ensured that the GP trainee is fully aware of their policy for recording consultations, the GP trainee should be responsible for the erasure of all recorded consultations at the appropriate time interval and should update the practice asset log when that has happened. The practice may wish to designate a member of staff to have oversight of this too.
11. The GP trainee should follow any additional internal practice procedures as appropriate.

Responsibilities for the GP Practice

1. This policy should be discussed with every new GP trainee during their induction period so that the trainee is made aware of the practice's procedures. Both parties should date and sign to indicate that this has happened.
2. The practice should have a robust procedure in place for following the consent process and for storing/deleting recordings in line with GDPR requirements.
3. The practice is responsible for providing the appropriate resources to enable patient consultations to be recorded, stored and transported in an appropriate and secure manner.
4. The practice should ensure that the GP trainee is appropriately deleting recorded consultations, both from any recording device and on any secure encrypted storage device/drive.
5. If there is ever a data breach, please follow the process as suggested.
6. The practice should have an open, transparent and robust process in place for any patients wishing to exercise their rights under the GDPR in relation to the recording of their consultations. Any requests from patients wishing to exercise these rights should be dealt with appropriately by the designated GDPR Data Officer for the practice.
7. Practices should provide patients consenting with an information sheet detailing their procedures regarding recording of consultations including their rights under GDPR.
8. Patients have a right to request a copy of the recording and if this is made the practice is required to comply or prove that the consultation has been deleted. Completed Practice Asset Log would be sufficient proof of deletion.

SUGGESTED PROCESS TO FOLLOW IF THERE HAS BEEN A DATA BREACH

In the event on any data breach regarding recorded patient consultations:

1. The incident will need to be reported to the Information Commissioner's Office and advice on how to do this can be found at:

<https://ico.org.uk/about-the-ico/who-we-are/scotland-office/>

and

<https://ico.org.uk/for-organisations/report-a-breach/personal-data-breach/>

These documents highlight the importance in having processes in place to learn from them.

2. A duty of candour letter will need to be sent to patients when appropriate.
3. Seek advice from your Medical Defence Organisation.
4. Where trainees are involved they should inform NHS Education for Scotland as their employer, declare the incident on SOAR (which the ARCP panel can then review), and reflect on the events in an SEA. Practices should declare any breach to their relevant Health Board.

In all cases please inform your local TPD and Assistant GP Director.

Acknowledgements

The following resources were invaluable when drawing up this guidance

1. Adapted by Dr Kenneth Lee (Assistant GP Director) for NHS Education for Scotland from a document produced by Dr Janet Rutherford, HEE East of England
2. Updated Guidelines for Recording of Patient Consultations, Spring 2017 Irish College of General Practitioners
3. Guidelines on Safe Storage of videotaping consultations and other Person Identifiable Data, Dr Graham Rutt, GP Dean, HENE September 2014

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With grateful thanks to

- Tracey Gill and Maureen Henderson, Information Governance, NES

Example of Notice to be Placed in Practice Reception/Waiting Areas

This is a GP Training Practice attached to the NHS Education for Scotland Specialty GP Training Programme. We are keen to support the training of new GPs and also to develop the skills of our existing GPs and other staff. As part of this, clinicians working in this practice might make recordings of their consultations with patients to help them improve their consultation skills as well as their ability to talk to patients.

The recording will only be used for teaching and training purposes, usually within the practice building between trainer and trainee, although sometimes teaching sessions may be held outside the practice in a group setting where the recording may be viewed by other trainers and trainees.

Your consent will always be requested by the receptionist before your consultation is recorded. You will need to sign that consent form again afterwards to say that you are still happy. You can also withdraw your consent at any time following this, either verbally or in writing. The recording will focus on the communication between the doctor and patient and will not record examinations where your body clothing needs to be removed.

If you would rather that your consultation is not recorded, please tell the receptionist. This is entirely your choice and will not affect your health care in any way.

Please also refer to our practice privacy notice which tells you how we manage your personal information when you make contact with us or use one of our services.

**The contact details for the Practice's data protection officer are:
[insert name, e-mail and contact address for the responsible person]**

SUGGESTED CONSENT FORM – RCGP JUNE 2018 (Adapted)

Patient Consent Form for Consultation Recording for Training Purposes

Patient's name:		Place of Recording:	
Name of person(s) accompanying patient to the consultation:		Date:	

We are hoping to make video/digital recordings of some of the consultations between patients and Dr whom you are seeing today. The recordings are used by qualified doctors training to be a GP to review their consultations with their trainers. The recording is ONLY of you and the doctor talking together. Intimate examinations will not be recorded, and the camera/recorder will be switched off on request. The recording will only be used for teaching and training purposes, usually within the practice building between trainer and trainee, although sometimes teaching and training sessions may be held outside the practice in a group setting where the recording may be viewed by other trainers and trainees.

All recordings are carried out according to guidelines issued by the General Medical Council and will be stored securely in line with the General Data Protection Regulation (GDPR). They will be deleted as soon as the teaching event has taken place or within 3 months of the recording taking place, whichever is sooner.

You do not have to agree to your consultation with the doctor being recorded. If you do agree, you can request that the recording be stopped at any time. Your choices will not affect your medical care in any way. If you agree to your consultation being recorded and used for the above purposes, please sign below. Thank you very much for your help.

TO BE COMPLETED BY PATIENT

I have read and understood the above information and give my permission for my consultation today to be recorded.

Signature of patient BEFORE CONSULTATION:

.....Date.....

Signature of person accompanying patient to the consultation:

.....Date.....

After seeing the doctor, I [am still willing/I no longer wish] my consultation to be used for the above purposes. Consent can be further withdrawn verbally or in writing at any time after this.

Signature of patient AFTER CONSULTATION:

.....Date.....

Signature of person accompanying patient to the consultation:

.....Date.....

This consent form will be scanned into your patient clinical record for safekeeping.

Appendix C

PRACTICE ASSET LOG OF RECORDED CONSULTATIONS ON SECURE ENCRYPTED DEVICE

[illegible]