

Knowledge of, and ability to work with, issues of capacity, confidentiality and consent

All professional codes relating to confidentiality make it clear that where there is evidence of imminent risk of serious harm to self or others, confidentiality can be breached and relevant professionals and family members/significant others informed.
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Decisions about issues of confidentiality and consent may be influenced by judgments about the individual's capacity.

Knowledge of policies and legislation

An ability to draw on knowledge of local and national policies on confidentiality and information sharing, both within and between teams or agencies
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An ability to draw on knowledge of the application of relevant legislation relating to legal capacity

Knowledge of legal definitions of consent to an intervention

An ability to draw on knowledge that valid legal consent to an intervention is composed of three elements:
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the person must be capable of consenting (legally competent)
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the consent must be given voluntarily

the person must be suitably informed

An ability to draw on knowledge that individuals have a right to withdraw or limit consent at any time
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Knowledge of capacity

An ability to draw on knowledge relevant to the capacity of individuals to give consent to an intervention
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An ability to draw on knowledge that relevant legislation on capacity applies to adults over the age of 16 who (because of mental health problems or an inability to communicate because of physical disability) may be deemed to lack capacity if they meet one or more of the following criteria, and are incapable of:

taking action, or

making decisions, or

communicating decisions, or

understanding decisions, or

retaining the memory of decisions

Ability to gain informed consent to an intervention

An ability to give clients the information they need to decide whether to proceed with an intervention, e.g.:

what the intervention involves

the potential benefits and risks of the proposed intervention

what alternatives are available to them
An ability to use an interpreter where a client's first language is not that used by the practitioner and their language skills indicate that this is necessary
Where clients have a disability, an ability to ensure that information is provided in an accessible form (e.g. using an interpreter for a person who has a hearing impairment)
An ability to invite, and to actively respond to, questions about the proposed intervention
An ability to address any concerns or fears over the proposed intervention
An ability to draw on knowledge that after consent has been granted, it is usual to revisit this issue when introducing specific aspects of an assessment or intervention

Ability to draw on knowledge of confidentiality

An ability to draw on knowledge that a duty of confidentiality is owed:
to the person to whom the information relates
to any people who have provided relevant information on the understanding it is to be kept confidential
An ability to draw on knowledge that confidence is breached where the sharing of confidential information is not authorised by the person who provided it or to whom it relates
An ability to draw on knowledge that there is no breach of confidence if:
information was provided on the understanding that it would be shared with a limited range of people or for limited purposes, and information has been shared in accordance with that understanding
there is explicit consent to the sharing

Sharing information to maintain safety

An ability to draw on knowledge that it is appropriate to breach confidentiality when withholding information could:
place a client or others (e.g. family members, significant others, professionals, or a third party) at risk of significant harm
prejudice the prevention, detection or prosecution of a serious crime
lead to an unjustified delay in making enquiries about allegations of significant harm to others
An ability to judge when it is in the best interest of a client to disclose information, taking into account their wishes and views about sharing information, holding in mind:
that disclosure is appropriate if it prevents serious harm to a person who lacks capacity
the immediacy of any risk of suicide or self-harm (e.g. the degree of planning, the type of suicide method planned or already attempted, circumstances such as being alone, refusing treatment, or drinking heavily or being under the influence of drugs)
An ability to draw on knowledge that the duty of confidentiality does not preclude listening to the views of family members/significant others, or providing them with non-person specific information about managing a crisis or seeking support
An ability to judge when sharing information within and between agencies can help to manage suicide risk
An ability to discuss concerns about disclosure with colleagues (e.g. by discussing the case without revealing the person's identity)

Ability to inform all relevant parties about issues of confidentiality and information sharing

An ability to explain to all relevant parties (e.g. clients, significant others and other professionals) the limits of confidentiality and circumstances in which it may be breached (e.g. when an individual is considered to be at risk)
An ability to inform all relevant parties about local service policy on how information will be shared, and to seek their consent to these procedures (e.g. how information about the assessment and intervention will be shared with referrers)
An ability to revisit consent to share information if:
there is significant change in the way the information is to be used
there is a change in the relationship between the agency and the individual
there is a need for a referral to another agency who may provide further assessment or intervention
An ability to draw on knowledge that safeguarding needs usually take precedence over issues of consent and confidentiality

Ability to assess the capacity to consent to information sharing

An ability to gauge the individual's capacity to give consent by assessing whether they:
have a reasonable understanding of what information might be shared, the main reason(s) for sharing it and the implications of sharing or not sharing the information
appreciate and can consider the alternative courses of action open to them
express a clear personal view on the matter (as distinct from repeating what someone else thinks they should do)
are reasonably consistent in their view on the matter (i.e. are not changing their mind frequently)

Ability to share information appropriately and securely

An ability to ensure that when decisions are made to share information the practitioner draws on knowledge of information sharing and guidance at national and local level, and:
shares it only with the person or people who need to know
ensures that it is necessary for the purposes for which it is being shared
check that it is accurate and up-to-date
distinguishes fact from opinion
understand the limits of any consent given (especially if the information has been provided by a third party)
establishes whether the recipient intends to pass it on to other people, and ensure the recipient understands the limits of any consent that has been given
ensures that the person to whom the information relates (or the person who provided the information) is informed that information is being shared, where it is safe to do so
An ability to ensure that information is shared in a secure way and in line with relevant local and national policies