

Patient consent for Audio-COT consultations

Patients & audio-recording

Patients have a right to expect that consultations will be devoted to their needs and expectations and that these will not be compromised by the needs of the profession. However, many patients are pleased to contribute to teaching, learning and assessment within medicine, and some may feel that it is their duty to do so even if the benefits will be to others rather than to themselves. If patients do agree to their consultation being used for training purposes they have a right to confidentiality and to be informed about what any recording of the consultation will be used for, who will listen to it and what standard of behaviour is expected of the listeners. The care they receive should not be compromised by the fact of the recording or the purposes for which it will be used.

An Audio-COT can be done live (with another doctor listening in to both sides of the consultation) or through a recording. In both situations there should be informed patient consent from the caller;- this should be obtained at the beginning and confirmed at the end of the consultation. This document seeks to outline the requirements for informed consent. Appendix 1 suggests a form of words for use when explaining that the consultation might be used for training purposes.

Practices should remember that, as a result of the General Data Protection Regulation (GDPR), there are additional issues if a consultation is recorded related to for example the length of time it is kept for, who has access to it and the purposes for which it can be used. Appropriate guidance on these issues can be obtained through the Information Commissioner's Office (ICO).

Informed consent

Each consultation that is used for an Audio-COT in GP must be done with the informed consent of the patient. The beneficial effect on patient care in general should be mentioned, but there must be no coercion.

Informed consent must be sought before the Audio-COT takes place but it must also be confirmed after the consultation is over. Sometimes the patient may be distressed by the consultation and it may be difficult to broach the subject immediately. Equally the outcome of the consultation may sometimes lead to a patient ending a call abruptly in an angry or distressed state. Consultations such as these are often invaluable for teaching and learning, but this must not be allowed to override the rights of the patient to give informed consent to its use for these purposes. If post-consultation consent is not obtained or is refused, any recording should be erased, although a case can be made for it to be reviewed by the doctor who conducted the consultation for personal learning purposes. Informed consent should also be gained for another doctor to directly observe the telephone consultation.

While consent for the use of a recording may have been properly obtained, subsequent viewing may reveal that it would be ideal for other purposes. The recording can only be used if the caller is contacted and agrees to extend consent for different professional groups, some of whom are not health care professionals, to listen to the recording and for the recording to leave the practice premises.

How should informed consent be requested?

When verbal consent to an Audio-COT is sought it must be done in a neutral fashion: the wording of the consent must not assume that the answer will normally be yes. If there is an opportunity to approach the patient at the time of arranging an appointment then this is desirable. If this is done, a note should be made of the fact. It is important that consent be obtained in a way that allows the patient time to reflect before responding. The nature of GP means that the first approach will usually be with a receptionist. It is, therefore, important that all staff who perform this task have had training and understand the implications of the request that they are making to the patient.

Some patients may have difficulty in giving informed consent; vulnerable groups include:

- the very ill
- the mentally ill
- children
- those with a learning disability
- refugees and asylum seekers
- non-English speaking
- those with poor literacy

Confidentiality

It is important that patients understand who will listen to their consultation based on the consent they have given. It is essential that generic categories should be specified at the time of consent and the reasons for their access to the consultation explained to the patient. The number of potential listeners should be discussed, particularly if an audio-recording of the consultation might be shared with a large group outside the practice - e.g. day release course. The patient should be given the name of an individual who will ensure that the scope of the consent is not exceeded and who would undertake to contact the patient for permission if any change of use is required. This individual would normally be the doctor who conducts the consultation, or, in the case of a trainee, the supervising doctor. The patient should be confident that any observer of their consultation will refrain from discussing what they have seen outside the session in which they listened to it, and the contents of the recording would be treated in the same way as material which might be contained in the patient's medical record.

Please see GMC and Information Commissioner's Office (ICO) Guidance for further information:

http://www.gmc-uk.org/Making_and_using_visual_and_audio_recordings_of_patients.pdf_58838365.pdf

<https://ico.org.uk/for-organisations/health/health-gdpr-faqs/>

APPENDIX 1:

Statement for receptionist to advise patients that there may be two doctors on the telephone line during the conversation and/or to gain consent before audio-recording

'We are hoping to use some of the consultations between patients and Dr, with whom you will be having a telephone consultation today, for training purposes. Doctors training to be GPs use audio-recordings and directly observed consultations to evaluate their telephone consultations.

There will be:

- Two doctors on the telephone line during your consultations – with one doctor listening

And/or

- An Audio-recording will be made of your consultation. The audio-recording is ONLY of you and the doctor talking together.

All audio-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).

You do not have to agree to your consultation with the doctor being observed or recorded. If you do not want the consultation used in this way, please let me know - this is not a problem, and will not affect your consultation in any way. But if you do not mind your consultation being used for training, we will record your verbal consent. Thank you very much for your help.'