

FAQs Disclosing confidential information about patients – including where they may not be fit to drive

1. Why has the GOC developed this guidance?

Our standards make clear that registrants should promptly raise concerns about their patients if in their professional judgement patient or public safety might be at risk and that they should encourage others to do the same.

Some registrants and members of the public have requested more clarity about whether they are ever permitted to disclose confidential information under the Standards of Practice and have asked for guidance on implementing these standards in practice.

One particular area in which registrants have told us they find difficult is where a patient might be unfit to drive due to their eyesight. [Research we undertook with registrants in 2017](#) showed that in cases where patients do not meet the visual standards required to drive, 72% would not feel comfortable disclosing this to the DVLA/DVA if the patient would not or could not do so themselves.

There are other circumstances in which it may be appropriate to disclose confidential information in the public interest and as our registrants diversify their scopes of practice and increasingly work in multi-disciplinary teams, they may encounter more situations in practice where disclosure of information might be needed to protect the public.

We have therefore produced this guidance to provide that clarity.

2. Why is the GOC not making it mandatory for optometrists to immediately report patients to the DVLA if they are unfit to drive?

Legally, the onus is on drivers to report any health conditions to the DVLA – this is the case for all health conditions, not just relating to eyesight.

We are concerned that an automatic reporting system could have negative consequences for patient and public health.

- It could damage the relationship of trust between patients and their eyecare practitioner or other healthcare professionals, as the onus should be on patients to contact the DVLA;
- Research we carried out with the public showed that it could deter people from going for sight tests (89% of registrants surveyed in 2017 expressed this

view). This could have negative consequences for public health, including road safety, if those in need of eyesight correction were not having sight tests; and

- It would be a different approach to that taken by other regulators, including the General Medical Council.

We undertook consultation with all our stakeholders from March to June 2019, via a survey on our [consultation hub](#), where we asked for views on a draft of the guidance. Following this consultation, it was made clear that whilst registrants would like clearer guidance on what to do when faced with a patient who may be unfit to drive, they also value their relationships with patients and don't want to damage these unless absolutely necessary.

3. As a registrant I would find it difficult to tell a patient I was disclosing information without their consent. What should I do?

We appreciate that this is not an easy conversation for a practitioner to have and that that the patient may react negatively. However, as a healthcare professional you have a responsibility to ensure the care and safety of the public. Our guidance makes clear that there are certain circumstances in which you will have a professional obligation to override confidentiality in the public interest.

There will be some limited circumstances in which it is not appropriate for you to discuss your intention to disclose with the patient before you do so, and these are set out in the guidance document. Outside of these situations, it is always best to try to broach the subject with the patient first and try to get them to disclose the information themselves. This is particularly important in relation to disclosures to the DVLA/DVA, where the patient has a duty to inform them about anything that may affect their ability to drive safely.

4. Which duty carries a higher weight in the GOC standards? Confidentiality or protecting the public from harm?

None of our *Standards of Practice* carry a higher weight than others. The guidance makes clear that in certain circumstances the need to protect the public may override the need to maintain confidentiality. You should use your professional judgement in deciding when this may be necessary, using the guidance for assistance if you wish.

5. Will the GOC erase me from the register if I don't disclose information about a patient where public safety is at risk?

The guidance is designed to help registrants be confident in justifying their decision to disclose information. Erasure from our register is only applied in the most serious cases, where this is the only sanction sufficient to protect patients and the public interest. Whilst we have a duty to investigate any reported breach of our standards and we cannot pre-judge the outcome of any potential investigation, FTP judgements are only made on what could reasonably be expected of a peer in the same circumstances.

6. Should sight tests for drivers be compulsory at a certain age, or after a certain number of years?

This would require a change in the law is a matter for the Government and for the DVLA (DVA in Northern Ireland) as the agency responsible for issuing driving licenses.

Before considering a change to law, we would expect the Government to consult and carry out an impact assessment in line with standard practice in order to identify the full range of impacts and avoid any unintended consequences.

We have developed this guidance to be appropriate for the current law; if the law were to change in the future then we may update our guidance accordingly. It is important to note, however, that we are the independent regulator for optometrists and dispensing opticians, not for drivers. It is our role to ensure that optometrists and dispensing opticians are aware of their responsibilities when a patient is not fit to drive; it is not our role to decide the rules about who can and cannot drive, which is a matter for Government and the DVLA. As an independent regulator we do not take positions on matters of law outside of our immediate remit as this could lead to our independence as a regulator being called into question.

7. Why does the guidance contain information about situations that are rarely encountered by optometrists and dispensing opticians in practice?

As our registrants are increasingly working within multi-disciplinary environments, the types of information they will have access to (and the situations they will encounter) may expand. In addition, as healthcare professionals, our registrants are trusted by their patients and may find themselves in situations where patients confide information in them about health or other issues not strictly related to optical practice. It is for these reasons that the guidance covers more general disclosures of information as well as those encountered frequently in optical practice.

8. I would like to know more about the difference between explicit and implied consent, and when each can be used. Where can I find more information on this?

The GOC's guidance on consent sets out more information in this area. You may find it helpful to refer to this as you read the guidance on disclosing confidential information.