



Institute of  
Medical  
Illustrators

Clinical Photography, Art,  
Graphics and Video in Healthcare

## **IMI National Guidelines**

# **Patient Confidentiality and Clinical Illustrative Records**

*The IMI National Guidelines have been prepared as baseline guides on specific aspects of medical illustration activity and provide auditable standards for the future.*

*The Guidelines can either be implemented in full, or may be amended according to individual requirements.*

*Copies are available on the IMI website ([www.imi.org.uk](http://www.imi.org.uk))*

**March 2006**

## Background

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The Data Protection Act 1998 is the current legislation in the UK that dictates how individuals and organisations handle, store and process personal information. Apart from the legal obligations imposed by this Act, healthcare professionals have always worked to moral and ethical codes regarding the confidentiality of patient information. It is because of these codes that patients are able to develop trusting relationships with the healthcare workers that deal with them, be that in the community, primary healthcare or the hospital.

Medical illustrators have always been aware of their obligations regarding confidentiality, perhaps more acutely so because of the nature of the patient records that they produce. The clinical illustration is readily recognisable by the public, unlike a radiograph or ultrasound scan that require specialist knowledge to interpret. Not only that, the clinical photograph records features that are visible or may be hidden by clothing, whereas other medical images record 'hidden' features, and are therefore not easily ascribed to an individual.

A breach of confidentiality involving a clinical photograph or video recording can cause great distress to the patient and will undoubtedly have grave consequences for the healthcare worker(s) concerned and their employer. Good practice guidelines have been available to medical illustrators for over 20 years (see bibliography) and these require regular review and up-dating as legislation, and national and local policies change in response to what is socially acceptable.

## Maintaining confidentiality of clinical illustrations

The NHS established The Caldicott Committee to review confidentiality issues and a report was published in 1997. Subsequently Caldicott Guardians were appointed by hospital Trusts to ensure that staff received guidance on handling confidential patient data and that guidelines were followed. Other organisations such as the GMC (2002) and the BMA (2004) also reviewed the guidance that they gave to clinicians. All state registered professions now include statements regarding patient confidentiality in their codes of conduct.

Confidentiality is closely linked to informed consent which will define how a clinical illustration may be used. By definition, then, any use outside of that stipulated in the consent will be a breach of confidentiality. It is not the purpose of this document to explore the issues of informed consent - these are dealt with in a separate IMI National Guideline on Informed Consent.

The Department of Health published a Code of Practice for confidentiality in 2003 and the following points from the Introduction should be noted: -

1. This document is a guide to required practice for those who work within or under contract to NHS organisations concerning confidentiality and patients' consent to the use of their health records. It replaces previous guidance, HSG (96)18/LASSL (96) 5 – The Protection and Use of Patient Information and is a key component of emerging information governance arrangements for the NHS.
2. For the purposes of this document, the term 'staff' is used as a convenience to refer to all those to whom this code of practice should apply. Whilst directed at NHS staff, the Code is also relevant to any one working in and around health. This includes private and voluntary sector staff.
3. This document
  - a. introduces the concept of confidentiality;
  - b. describes what a confidential service should look like;
  - c. provides a high level description of the main legal requirements;
  - d. recommends a generic decision support tool for sharing/disclosing information;
  - e. lists examples of particular information disclosure scenarios.

The document also notes that it is an evolving document because standards are always changing. It is therefore important that medical illustrators keep up-to-date with confidentiality issues.

## Obligations of IMI members

The IMI Code of Professional Conduct contains the following on confidentiality: -

### **7. – Confidentiality, security and copyright**

Clinical photographers must protect the confidentiality, security, and copyright of images and information to conform to legislation and protect the rights and dignity of patients.

Detailed guidance can be obtained from IMI Guidelines on Consent and Confidentiality.

#### 7.1 Confidentiality

Clinical photographers shall ensure the confidentiality and security of information and images acquired in the course of their professional practice.

All audiovisual records of patients will only be made in accordance with local procedures for obtaining informed consent.

The disclosure of confidential information and records will normally only be permissible where the patient has given express informed consent or there is legal justification.

A member of IMI found to be in breach of this Code will face a disciplinary hearing. It is important therefore that all members fully understand these statements. To help in adhering to the Code of Practice some pointers to good practice are offered in the Guidelines section.

## Guidelines

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1. It is recommended that medical photography/illustration departments have a policy and protocol covering the handling of confidential material. The Caldicott Guardian and Data Protection Officer's advice should be sought in writing these documents. IMI provides a generic document that can be modified for local use on its website.
2. Clinical photographers and videographers should only obtain those illustrations requested by the clinician. It is these illustrations to which the patient has consented, and no others.
3. Clinical photographers and videographers should ensure that clinical illustrations can only be viewed within the medical illustration department by healthcare professionals that need to see them.
4. All film and paper based illustrations must be correctly identified and securely stored.
5. All digital illustrations must be correctly identified and stored in an image database protected by passwords in accordance with local policy. Data should be regularly backed up to maintain its integrity.

6. Non-illustrative patient information should be handled and treated in a similar manner to the illustrative records. A patient's personal details are also confidential.
7. When clinical illustrative records are released by the medical photography/illustration department it must be directly to the requesting clinician or his/her nominated representative. It is unwise to use either the internal or national post systems. Records should only be sent electronically over secure NHS networks, not via open email or the Internet. Proof of receipt should always be sought and retained.
8. All clinical illustrative records should be clearly marked with the level of consent given by the patient when they leave the department.
9. Medical photography/illustration departments should not release clinical illustrative recordings from the department unless informed consent has been given and a signature is obtained.
10. Informed consent for the publication of clinical illustrative recordings should be sought for each specific use. It is not considered good practice to obtain generic consent for such uses.
11. Departments of medical photography/illustration should not release clinical illustrative recordings for publication without first being satisfied that informed consent has been obtained for that use.

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