

Using mobile phones in NHS hospitals

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Using mobile phones in NHS hospitals

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1. Introduction

Whenever anyone is in hospital, or receiving social or health care, communication with family and friends becomes an essential element of support and comfort.

It is also the case that communication is much easier today with the widespread use of mobile phones and their integrated functionality such as texting and e-mailing.

However, mobile phones also commonly have extended functionality, including camera and video recording capability and music players. It is the potential for patients and visitors to use this functionality to take inappropriate photographs or videos that presents the greatest potential to interfere with patient dignity and privacy. In addition, ringtones or music played via mobile phones could disturb ill patients who are trying to recuperate and constant 'chatter' of other patients on mobile phones would be equally disruptive to those patients wishing to rest.

Pointing out the issues relating to mobile phone usage should help everyone understand the importance of ensuring that patients remain safe from intrusion, that they are treated with dignity, and enjoy privacy and comfort during their stay.

Consideration of these issues has now become an important consideration for trusts when carrying out their risk assessment regarding where mobile phones should and should not be used on their premises.

2. How to use this guidance

This best practice guidance offers a legal framework and an evidence base for trusts to use in compiling a mobile phone policy. It is relevant and applicable to all trusts and is being copied to NHS Foundation trusts for information.

There are other examples of accepted good practice that are based on common sense rather than a legal framework, and it is for trusts to decide whether to include them in their policies.

The relevant parts of the Healthcare Commission annual assessment are also detailed in support of this guidance.

Further relevant guidance on mobile phone usage can be found at:

www.dh.gov.uk

and

www.mhra.gov.uk

3. Policy statement

The reasons for not allowing the use of mobile phones in certain areas of the hospital are not solely related to interference with medical equipment. With the advent of camera phones, it is also important to prevent the taking of inappropriate photographs and videos.

Mobile phones should not be switched on or used in clinical areas, including wards, unless there are good reasons to do so.

Trusts should establish areas within the hospital and designate them as acceptable for mobile phone use, where issues of privacy and dignity and interference with medical equipment can be kept to a minimum. All areas should be clearly marked with appropriate signage as to whether mobiles phones are or are not allowed to be used.

Trusts should have a written policy regarding the use of mobile and camera phones, cameras and video recording devices, stating where and in what circumstances such devices can be used. All staff should be aware of the policy, and its reasons. The policy should be reviewed periodically.

4. Background

In 2000, many hospitals enforced a hospital-wide ban on the use of mobile phones. This was based on the risks associated with the interference of medical equipment, which is well documented. The Medicines and Healthcare Products Regulatory Agency (MHRA) has issued a number of reference documents relating to this;

- DB 1999(02) Emergency service radios and mobile data terminals: compatibility problems with medical devices. This document covers the impact of radio communications on the safe use of medical devices
- DB 9702 Electromagnetic Compatibility of Medical Devices with Mobile Communications. This device bulletin includes the findings of a study conducted into the effects of mobile communications.

The MHRA does not advise that trusts should operate a hospital-wide ban.

Misinformation regarding mobile wireless systems, electromagnetic interference and management procedures has led to a broad range of inconsistent policies among healthcare organisations.

As part of a review of the call charges of the bedside telephones, during 2006, it was recommended that the Department of Health should revisit the existing guidance on the use of mobile phones by patients and visitors, in hospitals and other NHS premises.

As a result, the Department produced guidance which was posted on its web site in August 2006. This guidance reinforces that already published.

5. Considerations

The differing environments and circumstances in each hospital mean that each individual trust must formulate its own policies according to local circumstances.

However, it is not simply the fact of using mobile phones for communications that presents problems for patients. Most phones these days incorporate cameras and video recorders. These are important areas of concern for trusts to consider, including the effective and legally compliant running of clinical areas, including wards.

Mobile phone use - Do's and Don'ts

Do's

- Do – carry out a thorough risk assessment to determine where mobile phones may and may not be used,
- Do – make sure you have a written policy on mobile phone usage, that is readily available for patients and visitors,
- Do – ensure there is a named official to take responsibility for the policy,
- Do – make all staff aware of the contents of the policy and make it easily accessible to them,
- Do – empower staff to challenge the misuse of mobiles on the site,
- Do – update the policy periodically according to changes in the healthcare environment and advances in technology,
- Do – clearly designate specific areas where mobile phones can be used,
- Do – make it clear that mobile phone use also includes the use of the camera facility,
- Do – clearly label designated 'usage and non-usage' areas with appropriate signage,

Don'ts

- Don't – allow unfettered mobile phone use throughout the healthcare premises,
- Don't – allow mobile phone use within 2 metres of sensitive medical equipment (as specified by MHRA),
- Don't – allow patients and visitors to use the camera phone facility without permission,
- Don't – subject patients to noisy ringtones, music from inbuilt players, constant "chatter", as they are recuperating,
- Don't – allow patients and visitors to charge their mobile phones from the hospital's power supply

Although NHS Trusts must ultimately decide where mobile phones are and are not allowed the Department of Health suggests that their usage, for safety, privacy and dignity and annoyance reasons, **are not used** in the following areas;

- On wards,
- Intensive therapy units,
- Operating theatres,
- Maternity wards,
- Special care baby units,
- Children's wards/areas.

Subject to carrying out a risk assessment trusts may wish to consider **allowing the use of mobile phones** in the following areas;

- Hospital reception and entrance areas,
- Non-clinical communal areas – which may including day rooms and café areas,
- Specially designated rooms/areas,
- Public corridors.

These lists are, by no means exhaustive.

6. Legal Framework

(i) Patient Privacy and Dignity

There is a legal duty to respect a patient's private life. The Human Rights Act 1998 (HRA) enshrines the right to respect for private and family life set out in the European Convention on Human Rights (Convention) which states:

- (i) *Everyone has the right to respect for his private and family life, his home and his correspondence,*

- (ii) *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

The HRA makes it unlawful for public authorities (including health authorities) to act in a way which is incompatible with the Convention. The European Commission has found that the collection of medical data and the maintenance of medical records fall within the sphere of private life protected by Article 8 of the HRA Act.

The European Court has recognised that respecting medical confidentiality is a 'vital principle' crucial to privacy and to confidence in the medical profession and in the health services in general.

Permitting the use of mobile phones with cameras in hospitals is unlikely to sufficiently respect medical confidentiality or indeed each patient's right to respect for his/her private life. The European Court and Commission have also ruled that there

is a duty to take action to ensure that these rights are protected effectively.

Therefore, in order to protect fully these rights, each trust could well be required to take the positive action of drafting a policy which states that the use of cameras and mobile phones with cameras are not permitted in certain areas of the hospital.

(ii) Patient Confidentiality

The use of camera phones and other photographic devices risks infringing patient confidentiality. Given the difficulty in detecting usage, the consent for taking photographs of either patients or their confidential information (especially with camera phones) may not be sought from either the hospital staff or the patient.

The Information Commissioner's Office states that all public and private organisations are legally obliged to protect any personal information they hold. In relation to this, any individual who takes a photograph of another individual using the camera on their mobile phone will be processing "personal data" and must comply with the Data Protection Act 1998 (DPA) in relation to the circumstances in which the photograph is taken and the use of that photograph. Photographs taken of individuals may contain sensitive personal data in relation to which the Act imposes requirements that are more stringent.

Examples of categories of sensitive personal data are; the racial or ethnic origin of the individual, an individual's physical or mental health or condition and information about their physical health, all of which may be shown on a photograph.

Where a photograph contains sensitive personal data, it will generally be necessary for the individual being photographed to give their explicit consent to the photograph being taken and they should also be notified of all of the purposes for which the photograph will be used.

(iii) Child Protection

The Children Act 2004 obligates each NHS Trust (along with councils, children's services, police authorities etc) to make arrangements for ensuring that :-

(a) their functions are discharged having regard to the need to safeguard and promote the welfare of children; and

(b) any services provided by another person pursuant to arrangements made by the person or body in the discharge of their functions are provided having regard to that need.

As NHS Trusts should safeguard and promote the welfare of children, they should be well aware that mobile camera phones are a potential risk in that inappropriate photographs could be taken either of them or of their confidential information within a hospital.

(iv) Nuisance

Another, important factor when considering patients' rights to privacy and dignity is the wide range of ring tones that can intrude on their peace and quiet. Trusts

should promote a stress free environment (as far as possible), for patients, to aid recovery. Patients should not be subject to constantly ringing mobile phone tones throughout the day and night.

Proposals are being formulated to deal with nuisance in NHS premises. In June 2006, the Department of Health published a consultation paper, 'Tackling nuisance and disturbance behaviour on NHS healthcare premises'. The consultation period ended on 1 September 2006. It discusses the main points arising from the responses received and the Department's position on these issues. The consultation sought comments on the need for such legislation and all aspects of its formulation and use.

The consultation document is available on the Department of Health website at:

www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_4140248

7. Good Practice

(i) Patient Privacy and Dignity

It would be almost impossible to detect whether mobile phones, most of which now incorporate cameras and video recording devices, are being used to take photographs. Additionally, with built in email transmission capability, photographs can be transmitted anywhere and to large numbers of people within moments of taking them. For this reason, many other facilities are banning the use of mobile phones, including schools, swimming pools and sports centres (for example, Bolton Council has implemented a ban on all photography and filming in its leisure centres in order to protect its customers, see <http://news.bbc.co.uk/1/hi/england/manchester/3043931.stm>).

There have already been a number of incidents in NHS Trusts where inappropriate photographs have been taken. Given the difficulty of detection there is a risk that there will be many more cases where photographs are taken, unknown and undetected. A study in the British Medical Journal supported this concern in an article dated October 14th 2006. See <http://www.studentbmj.com/issues/03/03/education/52.php>

(ii) Patient Confidentiality

In a hospital situation, it may not be possible for some individuals to give explicit consent for a photograph to be taken due to the nature of their physical or mental condition. In addition, it is difficult to see how the obtaining of explicit consent could be effectively enforced and policed in a hospital. Whilst it is likely that the individual who took the photograph, as opposed to the hospital, may breach the DPA by taking and using a photograph without consent, each hospital should be doing all it can to protect the rights of its patients and staff and avoid any breaches of the DPA where it is able.

(iii) Control of the environment

Wards are essentially a place of rest and recuperation; patients have a right to enjoy a peaceful environment. Mobile phone ring tones and conversations are intrusive and have an adverse impact on the environment of others.

For this reason, many places already have quiet zones where phones are prohibited, including train carriages, restaurants and doctors surgeries.

Although other phone systems may be in place in wards, they can usually be controlled to ensure that quiet times can be observed. A study in the British Medical Journal supported this concern in an article dated October 14th 2006.

(iv) Interference with medical equipment

The MHRA has said that in certain circumstances the electromagnetic interference from phones can interfere with some devices, particularly if used within 2 metres of such devices – a great deal of medical equipment will be within this distance at the bedside. Additionally, it should be noted that mobile equipment might temporarily be brought into a ward or other area, or be in use on a patient being transported to another area.

(v) Risk of loss or theft

Mobile and camera phone theft is commonplace in our society. NHS Trusts cannot take responsibility for loss or damage to equipment whilst a patient is away from the bed area or asleep.

(vi) Unapproved devices, with resultant health and safety risks

Mobile and camera phones require charging via the mains power supply. Consequently, there is a risk that an essential medical device may be inadvertently unplugged in order to charge a mobile device. In addition, patients' chargers are not electrically PAT tested, and this is likely to contravene hospital policy.

(vii) Confusion with alarms, with resultant health and safety risks

The variety of mobile phone ring tones means some of them may be confused with medical equipment alarm signals, by hospital staff. This, in turn, means that genuine alarm tones may be overlooked. This could have a direct impact on patient safety.

The Healthcare Commission annual assessment –against the Department of Health's core standards

The Department of Health publication 'Standards for better health' describes essential or 'core' standards that all healthcare organisations in England that treat NHS patients should be achieving, and developmental standards that they should be working towards achieving in the future.

The core standards relevant to this guidance are:

C2 Healthcare organisations protect children by following national child protection guidance within their own activities and in their dealings with other organisations.

C4 Healthcare organisations keep patients, staff and visitors safe by having systems to ensure that a) the risk of health care acquired infection to patients is reduced, with particular emphasis on high standards of hygiene and cleanliness, achieving year-on-year reductions in MRSA; **b) all risks associated with the acquisition and use of medical devices are minimised**; c) all reusable medical devices are properly decontaminated prior to use and that the risks associated with decontamination facilities and processes are well managed; d) medicines are handled safely and securely; and e) the prevention, segregation, handling, transport and disposal of waste is properly managed so as to minimise the risks to the health and safety of staff, patients, the public and the safety of the environment.

C13 Healthcare organisations have systems in place to ensure that a) staff treat patients, their relatives and carers with dignity and respect; b) appropriate consent is obtained when required for all contacts with patients and for the use of any patient confidential information; and c) staff treat patient information confidentially, except where authorised by legislation to the contrary.

C20 Healthcare services are provided in environments which promote effective care and optimise health outcomes by being **a) a safe and secure environment which protects patients, staff, visitors and their property, and the physical assets of the organisation**; and b) supportive of patient privacy and confidentiality.

Details of the Healthcare Commission's annual health check in 2006/2007 can be accessed via their website at:

www.healthcarecommission.org.uk

8. Conclusion

Trusts should consider a range of risks and issues when preparing their policy regarding where mobile phones should and should not be allowed to be switched on and used in hospitals.

The issue is not simply one of communication between patients, staff and visitors, but more significantly the potential for the camera and video facility to be used inappropriately, and potentially illegally.

Trusts should issue a clear, written, policy, which is easily accessible – with the patient at the forefront of any such policy.

Trusts should designate, and clearly signpost, areas in hospitals where mobile phones can and cannot be used. Where mobile phones cannot be used, in many cases alternative facilities do exist through either bedside telephone units and / or payphones.

In conclusion, the Department does not advocate a hospital-wide ban. There should be areas in hospitals where patients, visitors and hospital staff can use their mobile phones. However, mobile phones should not be allowed to be switched on in any

clinical area, including wards, unless there are good reasons why this should not be the case.

Examples of inappropriate use of the camera phone (*anonymised*)

There have now been a number of recorded incidents where mobile camera phones have been used to take inappropriate photographs, without consent. These are a few examples;

March 04 - A policeman was sacked after taking photos of two corpses while visiting a hospital mortuary. The policeman used a camera phone to take the snaps while visiting the hospital.

July 06 - Operating theatre staff took video during operation using camera phone and e-mailed to patient as record of the operation. Employee warned.

August 06 - Dismissal of Nursing Auxiliary after photograph was taken of patient as she was taken from the operating theatre.

October 06 - Reporter entered military ward and used camera phone to take photos. Apprehended when leaving the hospital by military personnel. Photographs not published.