

CONFIDENTIALITY

At the Wolverton Centre we will provide a confidential service to all our service users irrespective of age, race or sexual orientation. Confidentiality is the right of an individual to have personal, identifiable medical information kept private.

All information about you and your sexual health is protected by law under the NHS Trusts and Primary Care Trusts (Sexually Transmitted Diseases) Directions 2000 and The NHS (Venereal Diseases) Regulations 1974 (see www.dh.gov.uk - *Publications Policy & Guidance*)

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/Browsable/DH_088294

Our computer system is stand alone with its own server and not connected to the hospital or NHS IT systems. All IT and data systems comply with the Data Protection Act 1998 and NHS confidentiality code of practice. Our patient notes are separate from those in the hospital and are kept strictly within the Wolverton.

We seek permission from you at registration about how we may communicate with you – to receive your results for example (usually by mobile or text message). We do not routinely share information with your GP. If your GP refers you to us with a letter we would out of courtesy reply with a brief summary – but only if you had given your permission first. Very rarely we may contact your GP (if you have given us their details) if you are found to have a serious condition which needs treatment and we have been unable to contact you by phone or letter after multiple attempts. This is why it is important to give us a reliable contact number. This decision is taken by the consultant responsible for your care after discussion with appropriate clinical staff and consideration of all the options and in the end deemed to be in your best interest.

For patients attending the specialised sexual health clinics with more complex problems, we would normally write to your GP, as management of your condition usually requires some input from your GP e.g. prescribing medication. However we would always seek your permission first and you also have the option of receiving a copy of the letter.

For HIV positive patients attending the specialised HIV services involving your GP in your care is encouraged, as the clinic is unable to meet all your health needs fully. However the consultant looking after you always discusses this with you personally. It is appreciated that for most patients a period of time and adjustment is required before feeling able to disclose your HIV status to your GP. It is also very important to be registered with the right GP for you – someone you feel comfortable talking with. The clinic will be able to help you find a suitable GP.

One situation in which your patient information may enter the main NHS database would be if you were admitted as an inpatient to Kingston Hospital with an illness related to your visit to the Wolverton Centre. The typical situation where this would occur would be if you are being treated at the Wolverton Centre for HIV and you fall ill requiring hospital admission.

If you are a young person, you have a right to confidentiality. In certain circumstances the professional people you talk to might need to speak to another doctor or social worker, if they are worried about your safety. They will discuss this with you before any sharing of information takes place so that you have the chance to raise concerns. They must take any concerns you have seriously.

Consent to medical examination

Before embarking on any examination or screening tests we will gain your agreement to do so.

If you are under the age of 16 years you can consent to medical examination, investigation and treatment if you have sufficient maturity and judgment to enable you to understand what is proposed and its implication. The more serious the medical procedure proposed, the better the grasp of the implications is required.

If you are considered not capable of consenting consent would be required from one parent or a carer with parental responsibility. The consultation itself can still however remain confidential.

THE LAW

Heterosexual sex and the law

In England the age of consent to any form of sexual activity is 16 for both men and women.

The Sexual Offences Act 2003 introduced a new series of laws to protect children under 16 from sexual abuse. However, the law is not intended to prosecute mutually agreed teenage sexual activity between two young people of a similar age, unless it involves abuse or exploitation.

Specific laws protect children under 13, who cannot legally give their consent to any form of sexual activity. There is a maximum sentence of life imprisonment for rape, assault by penetration, and causing or inciting a child to engage in sexual activity. There is no defence of mistaken belief about the age of the child.

Health professionals in the UK may provide contraceptive advice and treatment to young people under 16 if in their clinical judgement, they believe it is in the young person's best medical interests and they are able to give what is considered to be informed consent.

The Sexual Offences Act 2003 which covers England and Wales does not affect the ability of professionals to provide confidential sexual health advice, information or treatment if it is in order to protect the young person from sexually transmitted infections or pregnancy, to protect their physical safety or to promote their emotional well-being.

Sex between men

The age of consent for sex between men is 16 throughout the UK. In England and Wales, the Sexual Offences Act 2003 introduced a series of child sex offences which equally protect young men from sexual abuse and exploitation.

Laws requiring "privacy" for sex between men in the UK have largely been repealed. Sex between men is no longer an offence when more than two people are present (Sexual Offences Act 2003, Convention Rights (Compliance) Act (Scotland) 2001).

Sexual activity between men in a public toilet is an offence throughout the UK. Apart from Scotland, the law has been equalised to also apply to sex between men and women, or between women.

Further information for gay men in relation to other aspects of the law can be found on the factsheet <http://www.lgf.org.uk/assets/Uploads/PDFs/News/Cottaging-and-Cruising-A4.pdf>

Sex between women

In England and Wales the legal age for young women to consent to any sexual activity is 16, whether they are straight, gay or bisexual.

In Scotland, there is no age of consent for sex between women laid down in statute. However, a girl under 16 is not deemed capable of consenting to any sexual behaviour which could be classed as sexual assault. The courts have taken this to mean that an age of consent for lesbians is 16.

Rape

In England, Wales and Northern Ireland, a man would commit rape if he intentionally penetrates with his penis the vagina, mouth or anus of another person, male or female, without that person's consent or if they are under 13. This is the only sexual offence which can only be committed by a man. The legal definition of consent is if a person "agrees by choice and has the freedom and capacity to make that choice."

In Scotland, rape is covered by common law and is defined as vaginal penetration. Anything else, however violent, is the crime of indecent assault. Male rape is not a recognised offence and would be treated as the common law offence of aggravated assault.

Women cannot be charged with the offence of rape as this is defined as penile penetration, but in England, Wales and Northern Ireland she could be charged with another offence such as causing a person to engage in sexual activity without consent.

Sexual assault by penetration

This offence was introduced in England and Wales by the Sexual Offences Act 2003. It is an offence for someone, male or female, intentionally to penetrate the vagina or anus of another person with a part of their body or anything else, without their consent. The purpose also has to be sexual, which is defined as:

- a reasonable person would always consider it to be so, or
- if a reasonable person may consider it to be sexual, depending on the circumstances and intention.

Practitioners who legitimately conduct intimate searches or medical examinations are excluded from this offence.

Sexual/Indecent assault

In England and Wales it is an offence for a person intentionally to touch sexually another person without reasonable belief that they consented. Touching covers all physical contact, whether with a part of the body or anything else, or through clothing.

Indecent exposure

In England and Wales it is an offence for someone, male or female, to expose their genitals if they intended another person to see them and to be caused alarm or distress. There is also the common law offence of outraging public decency.

Patient leaflets/general/confidentiality&thelaw leaflet2015.doc

Sexuality and the law

The EU Employment Equality (Sexual Orientation) regulations 1 December 2003 make it unlawful to discriminate against workers because of sexual orientation.

Summary of Regulations

These Regulations apply to all employment and vocational training and include recruitment, terms and conditions, promotions, transfers, dismissals and training. They make it unlawful on the grounds of sexual orientation to:

- Directly discriminate against anyone - to treat them less favourably than others due to their actual or perceived sexual orientation.
- Indirectly discriminate against anyone - to apply a criterion, provision or practice which disadvantages people of a particular sexual orientation unless it can be objectively justified.
- Subject someone to harassment. This is unwanted conduct which violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them having regard to all the circumstances including the perception of the victim.
- Victimise someone because they have made or intend to make a complaint or allegation or have given or intend to give evidence in relation to a complaint of discrimination on the grounds of sexual orientation.
- Discrimination against someone, in certain circumstances, after the working relationship has ended.

Civil Partnerships

Gay weddings are not legal in the UK. However, the Civil Partnership Act (passed in 2004) creates a new legal relationship of civil partnership, which two people of the same sex can form by signing a registration document. Civil partners will have a range of legal rights and responsibilities, although not all of those associated with marriage. The act came into force in December 2005.

The information set out above is not meant to represent legal advice in any form.

Links

www.opsi.co.uk
www.statutelaw.gov.uk
www.galop.org.uk
<http://www.fpa.org.uk/Information/Factsheets/lawonsex#x8bn>

The Wolverton Centre

CONFIDENTIALITY

AND

THE LAW

The Wolverton Centre for Sexual Health
Kingston Hospital NHS Foundation Trust
Galsworthy Road
Kingston-upon-Thames
Surrey, KT2 7QB
www.SexualHealthKingston.co.uk

Appointments & Information 020 8974 9331
Test Results Line 020 8934 2009
Secure Fax 020 8481 0078

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