

# Text Message Communication with Patients

## *Information Governance*

### Background

Many GP Practices use SMS (text messaging) to communicate with patients. Such information includes appointment reminders and confirmations, prescription reminders, test results and other data for direct care purposes.

The term 'text messaging' includes the use of apps such as WhatsApp, Facebook Messenger and similar services. All patient communication, regardless of format is regulated by the Data Protection Act 2018 incorporating the General Data Protection Regulations (GDPR).

Text messaging is generally viewed as being quick, convenient and efficient. It is popular with younger patients and especially those with hearing difficulties. Its use has been reported as improving patient communication with research indicating improved patient appointment attendance.

### Confidentiality Risks

Despite its popularity, text messaging can introduce some confidentiality risks.

- Mobile devices do not necessarily represent a secure endpoint. Mobile devices are often set as default to scroll messages across the screen or appear as a pop-up or display across the top of the screen even when the device is locked.
- Friends and family members of the patient may well know the pin number of the patient's device as mobiles are not always viewed as confidential devices.
- Patients may share their mobile device with friends for a call or other use, again without consideration of the special category or sensitive data held on the device.
- It is becoming common with the advent of Bluetooth enabled computers in cars or smart assistant / voice activated devices in homes for these devices to read out text messages automatically when others may be present.

- When a patient changes mobile number, the number is usually re-allocated to a new subscriber by the phone provider who then may receive patient communications.
- Lost or stolen phones will still contain the data.
- Many devices are sold to hardware recyclers when a new device is purchased and not everyone will 'wipe' their old device of data.
- It may be common that patients may not update their GP Practice or other care provider every time they change mobile phone number.

## Managing Patient Communication Preferences

Unlike postal addresses, use of text messaging, email and voicemail must be authorised by the patient. Every organisation needs to understand and respect patient preferences, especially as they relate to the patients' circumstances as seemingly innocuous communications can sometimes have unintended consequences or outcomes.

In practice, this means that patients need to understand the range of communication options available to them, to be informed of the potential risks of each communication format and indicate their preferences against each. The best time to do this is at patient registration but can also be offered to patients upon attendance at their GP Practice or other Provider. A separate preference pro-forma supports this advice sheet. Patient preferences must be kept on the patient record.

Providing the Practice with a mobile number as a general contact number should not be presumed to be sufficient 'opt-in' or consent for text message communications. Clear and recorded opt-in is needed.

## Currency

Patient circumstances can change over time and these preferences should be actively maintained. The fourth Data Protection Principle adopted into UK law states that

*Personal data processed shall be accurate and, where necessary, kept up to date.  
(Commonly referred to as the Accuracy principle)*

Given the confidentiality risks outlined above, it would be easy for a health provider to fall foul of this principle if contact details and preferences are not subject to routine re-validation.

**Where text message communication is intended to be used for test results, it is recommended that the patients preference is checked on each occasion.**

Patients should be free to update and change their preferences at any time and expect for those changes to be effective immediately.

## Children

The standard age at which young people are expected to be able to assert their rights under Data Protection is 13. However, following Gillick / Fraser competency guidelines, this should be assessed on an individual basis.

Young people may be keener for interaction via text message than older generations or their parents. The challenges are greater with children as they may wish text messages regarding their care to be sent to them for specific episodes of care whilst their care record may contain contact numbers for both themselves and their parents. Children may wish general care information to remain communicated to their parents, e.g. check-ups, service information etc. whilst wishing for a particular test result to be texted to only them. Clinics should be prepared to deal with specific situations and not to assume or presume that including parents in communications will be desired in all cases.

## Professionalism

- Consider the use of stock or repeatable messages for staff to use. Have these quality assured and approved by your Caldicott Guardian. This will help staff prevent making mistakes.
- Don't use 'text-speak', technical or easily misunderstood terms or sentences. Short, clear and simple is a good guide.
- Do not use a personal phone to send messages.
- Ensure that patients know that if they wish to communicate with the clinic that they need to call and not to respond to text messages.
- Ensure patients know that in urgent situations or emergencies they need to call their clinic or the emergency services and not the number that has sent the text message.
- An opt-out policy for text messaging is not acceptable. The patient must opt-in to text messaging.
- Patients must be made aware of the risks associated with communication by text messaging, email and voicemail and these must be explained prior to preferences being recorded.

- Consider using an IT system to send text messages rather than a business phone. This can prevent text messages being received in response to an outgoing message. Such a system should let the sender know that their text message has been unsuccessful. Such a system can also be used to embed the outgoing text in the patient record.
- Do not assume a sent text message, email or voicemail has either been received or properly understood. Text messages may fail and elderly or patients or those with degenerative or mental health conditions may not read them. Always provide a response number for the receiver to call. If the communication is urgent or contains important clinical information it may be unsafe to rely on text messages.
- Patients should be advised to 'read and delete' text messages containing clinical data.
- If the sending phone is capable of receiving reply messages, received replies must be monitored. A patient can make a valid subject access request (SAR) or freedom of information request by text message as they can by any other medium, e.g. a post to a Practice Facebook page. SARs can also be made verbally under GDPR. SARs must now be responded to within a calendar month so if received messages are only monitored on a weekly basis then valuable response time will have been lost. In addition, any received texts, if they remain held by the Practice (and not added to the patient record as they should be) can be in scope of a SAR and would need to be provided in response (if it is requested as part of the SAR).

## Re-consent

Re-consent for text, email or voicemail does not need to be re-consented following the implementation of GDPR / Data Protection Act 2018. Patients are free to change their preferences at any time.

The purposes of direct care and the sending of newsletters and other communications are different and as such the lawfulness condition and the ability to exercise rights change.

The processing of personal data for direct care is lawful under Article 6(1) (e) of the GDPR

*The processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.*

Consent is a different lawfulness condition and consent does not need to be gained for the provision of health care.

The promotion of other material which is not related to direct care is not included in the above description and for this Article 6(1) (a), the consent condition, should be used.

*The data subject has given his consent to the processing of his or her data for one or more specified purposes.*

The reason for the change is that the Practice must allow the patient to opt-out of receiving non-direct care messages. The ability to opt-out of processing is not available under the exercise of official authority and is only a feature of consent as a lawfulness condition.

The separation of purposes therefore allows a patient to opt-out of receiving other non-direct care related communications while continuing to allow their mobile number to be used for direct care purposes.

## Conclusion

While being easy to implement and easy to use, do not underestimate the administrative, IT, confidentiality and clinical burden and consequences of using text messages. Text messaging needs to be professional and integrated fully into Practice processes and systems, its use clearly communicated with patients and their preferences and contact details maintained and only used with patients where it is appropriate.

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