



Using mobile phones in NHS hospitals

January 2009

This guidance replaces all previous Department of Health mobile phone usage guidance.

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Contact Details	Stuart Robinson DH - Estates and Facilities Division 3N09, Quarry House, Quarry Hill, Leeds LS2 7UE 0113 2546611
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1. Introduction

- 1.1 Whenever anyone is in hospital, or receiving social or health care, communication with family and friends becomes an essential element of support and comfort. Communication is much easier today with the widespread use of mobile phones and their integrated functionality such as texting and e-mailing.
- 1.2 The Department wishes to reflect the rapidly developing principles of patient choice in the matter of mobile phone usage. It therefore considers that the working presumption should be that patients will be allowed the widest possible use of mobile phones in hospitals, including on wards, where the local risk assessment indicates that such use would not represent a threat to:
 - patients' own safety or that of others,
 - the operation of electrically sensitive medical devices in critical care situations,
 - the levels of privacy and dignity that must be the hallmark of all NHS care.
- 1.3 This guidance provides a reference for NHS trusts when conducting their local risk assessment and formulating their own mobile phone usage policy. If an NHS trust's decision is to allow mobile phone usage, it should monitor patient safety incidents as part of its policy implementation.
- 1.4 This guidance is relevant and applicable to all NHS trusts and is being copied to NHS Foundation Trusts for information.
- 1.5 Pointing out the issues relating to mobile phone usage should help everyone understand the importance of ensuring that patients in NHS hospital settings remain safe, that they are treated with dignity, and enjoy privacy and comfort during their stay.

2. Background

- 2.1 To date, many NHS trusts have 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 are well documented. The Medicines and Healthcare products Regulatory Agency (MHRA) does not advise that NHS trusts should operate a hospital-wide ban but has said that in certain circumstances the electromagnetic interference from mobile phones can interfere with some devices, particularly if used within 2 metres of such devices. It has issued a number of reference documents relating to this;
- 2.2 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.
- 2.3 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.
- 2.4 Safety Notice 2001(06) - Update on Electromagnetic Compatibility of Medical Devices with Mobile Communications: TETRA (Terrestrial Trunked Radio Systems) and Outside media broadcasts from hospital premises.

3. Legal Considerations

Patient Privacy and Dignity

- 3.1 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 Article 8 of 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.*
- 3.2 The European Court of Human Rights has held that there may be positive obligations inherent in effective respect for private life.
- 3.3 The HRA makes it unlawful for public authorities (including NHS trusts and NHS Foundation Trusts) to act in a way which is incompatible with the Convention.
- 3.4 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 Convention. This would, therefore, apply to personal medical information

including information which identifies a patient such as a photograph. 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 health services in general.

- 3.5 Permitting the use of mobile phones with cameras in certain areas of hospitals such as private areas (for example, bathrooms, toilets, secluded areas) may not sufficiently ensure medical confidentiality or indeed protect each patient's right to respect for his/her private life.
- 3.6 Therefore, in order to protect fully these rights, each NHS trust should consider the need to take the positive action of putting in place a policy which states that the use of cameras and mobile phones with cameras are not permitted in certain areas of the hospital, such as those mentioned above.
- 3.7 Equally, the notion of private life under Article 8 of the Convention encompasses the right of a patient to establish and develop relationships with other human beings and the outside world. Thus, NHS trusts should consider their duty to protect patients' rights to communicate with the outside world whilst in hospital, including access to alternative forms of communication where the use of mobile phones is not to be allowed in certain areas, when formulating their mobile phone policies.

Patient Confidentiality

- 3.8 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, subject to exceptions such as for limited household purposes, 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.
- 3.9 The use of camera phones and other photographic devices can result in the creation of sensitive personal data such as the racial or ethnic origin of the individual or information about an individual's mental or physical health. Therefore, NHS trusts should consider how they will effectively monitor the use of mobile phones with cameras.
- 3.10 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.

Child Protection

- 3.11 The Children Act 2004 places a duty on each NHS trust and NHS Foundation Trust (along with certain other public bodies) 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.

- 3.12 As NHS trusts should safeguard and promote the welfare of children, they should take into account that mobile camera phones are a potential risk in that inappropriate photographs could be taken either of them, or of confidential information pertaining to them, within a hospital and could be disseminated further.

Nuisance

- 3.13 Section 119 of the Criminal Justice and Immigration Act 2008 creates a new offence of causing nuisance or disturbance on NHS premises. A person may commit an offence if he or she causes, without reasonable excuse and whilst on NHS hospital premises, a nuisance or disturbance against an NHS staff member and refuses to leave when asked to do so by a police constable or NHS staff member.
- 3.14 A person who is on the premises for the purpose of seeking medical advice, treatment or care for himself or herself will not fall within this offence. However, once the advice, treatment or care has been received, or in the event that the person has been refused advice, treatment or care during the previous 8 hours, that person will become liable to commit this offence.
- 3.15 Persons who are not seeking medical advice, treatment or care could commit the offence if they, for example, use a mobile phone in such a way as to cause a nuisance or disturbance to an NHS staff member and where they fulfil the other elements of the offence.
- 3.16 A person who commits the offence would be capable of being removed from the premises by an NHS staff member authorised to exercise the powers of removal, or by a police constable (subject to certain safeguards set out in the Criminal Justice and Immigration Act 2008 about the exercise of these powers).
- 3.17 NHS trusts should be aware of the plans to create this offence and the attendant power of removal in section 120, but should not place any reliance on the above as a complete statement of the law. Instead, NHS trusts will need to consider the relevant sections of the Criminal Justice and Immigration Act 2008 (sections 119 to 121).

Unapproved devices, with resultant health and safety risks

- 3.18 Mobile and camera phones need to be charged 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 Portable Appliance Tested (PAT), and this may contravene hospital policy and health and safety regulations.

- 3.19 NHS trusts should take this issue into account when devising their mobile phone policies.

Appendix A refers to a variety of information already published. It is essential that NHS trusts familiarise themselves with this information prior to formulating an effective mobile phone usage policy. The list is by no means exhaustive.

4. Conclusion

- 4.1 The working presumption should be that patients will be allowed the widest possible use of mobile phones in hospitals, including on wards, where the local risk assessment indicates that such use would not represent a threat to patients' own safety or that of others, the operation of electrically sensitive medical devices in critical care situations and the levels of privacy and dignity that must be the hallmark of all NHS care.
- 4.2 NHS trusts should familiarise themselves with the risks and issues when preparing their mobile phone usage policy, not least patient privacy and dignity, patient safety and the potential for interference with medical equipment.
- 4.3 NHS trusts should have a written policy regarding the use of mobile and camera phones, cameras and video recording devices. It should be easily accessible to staff, patients and visitors and have the patient at the forefront of any such policy. All staff should be aware of the policy, and its reasons. The policy should be reviewed periodically.
- 4.4 All areas should be clearly marked with appropriate signage to leave patients, staff and visitors in no doubt where mobile phones can or cannot be used.

References

The Medicines and Healthcare products Regulatory Agency (MHRA) – electromagnetic interference on medical equipment.

Website: www.mhra.gov.uk/index.htm

The National Patient Safety Agency – Reported incidents of mobile phone interference on medical equipment.

Website: www.npsa.nhs.uk

The European Commission – Privacy of patient's medical records

Website: ec.europa.eu/index_en.htm

The Office of Public Sector Information / - Acts of Parliament
The Human Rights Act 1998
Data Protection Act 1998
The Children Act 2004

Website: www.opsi.gov.uk

The Criminal Justice and Immigration Bill

Website: www.parliament.uk

The Healthcare Commission – core standards

Website: www.healthcarecommission.org.uk

Reported Incidents

Reported to the MHRA

Since 2001 the MHRA has had 4 proven cases of mobile phones interfering with medical devices. They are;

One of increased filtration on a dialysis unit- serious but was noticed and acted on and three of infusion pumps being stopped /speeding up/ triggering alarms.

There were another 8 cases where the fault could neither be proved nor disproved as being due to interference from a mobile phone.

If medication being delivered via a medical device is stopped unexpectedly, the seriousness of the incident depends on the type of medication being infused.

Reported to the National Patient Safety Agency (NPSA)

Six incidents have been identified (from the period 1 January 2005 to 16 January 2008) which indicate malfunctioning of equipment associated with the presence of mobile phones. In all of the incidents the impact of the equipment malfunction was identified before the patient was harmed.

1. The patient's pump read the volume to be infused as 175mls, but the bag had approx 600mls remaining. The patient had a mobile phone switched on despite being warned about it affecting pumps. The pump was reset and a new spectral edge frequency infusion check chart was started to monitor the pump. The patient switched the phone off. The pump had sodium bicarbonate in n/saline running at 210mls over 5hrs. The pump continued to run behind so it was replaced and sent to medical devices. The ward manager was informed.
2. The dialysis equipment appeared to have reset to the default programme. The patient gained 0.3 Kg of fluid over dialysis. The patient next to the patient receiving the dialysis had a mobile phone on.
3. The patient was on single needle dialysis. The arterial pump speed changed twice on the machine without any intervention. A patient nearby had their mobile phone on. The phone was switched off and the mobile dialysis machine maintained a constant pump speed.

4. The patient's Patient Controlled Analgesia pump started alarming. On inspection, the pump read bolus dose 100 mcg, lockout period: 1 min concentration 1 mg in 1 ml. The actual prescription was 2.5 mg bolus, 20 min lockout period concentration 10 mg in 1 ml.

The pump was correctly set up and the correct prescription was programmed. The patient went out to make a phone call and on return to the ward the patient informed the nurse that the pump was alarming. The prescription was changed but it did not infuse. The pump was reprogrammed immediately by the night staff. The nurse was asked to send the pump to medical electronics to have the memory searched and the pump checked. Medical electronics phoned the sister on the ward and mentioned that the problem with the pump alarming was caused by a mobile phone. The patient was O.K and suffered no adverse effects. The patient rarely used the PCA pump and the problem was discovered quickly and rectified. The nurse was advised that if such an incident occurred again the pump should be changed and sent to medical electronics.

5. Chemotherapy infusion was in progress, going through a volumed infuser. Chemotherapy infusion rate was followed as per the regime. The first two half-hourly cycles infused with no adverse events. The patient called staff as the half hour cycle No.3 completed after 10 minutes as opposed to half an hour (cycle 83 mls). The infusion stopped, a doctor was informed and observations were stable. Infusion recommenced 20 minutes later. Volumed removed and retained for inspection. There was a query as to whether there was faulty equipment. The rate of infusion was checked by two nurses and was correct at the time of infusion. The patient was asked if he had a mobile phone. The response was affirmative and the phone was switched on during infusion. The patient was asked to turn the mobile phone off. The consultant, matron, on call manager and pharmacist were informed.
6. A corneal pachymeter was being used for routine corneal thickness measurement. It would not advance to the next auto reading. When switched off and on again it displayed "probe fault ". When a buzzing sound was heard, it was noticed that a mobile phone (set to vibrate) was sitting immediately next to the pachymeter .

These statements are unedited excerpts from incident reports received by the National Patient Safety Agency