SHORT REPORT

Occupational physicians’ perceptions and impact of 2009 GMC consent guidelines

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Background In 2009, the General Medical Council (GMC) updated its guidance on consent, introducing a new statement that employees should be offered the opportunity to view reports, before the reports are sent to the employer.

Aims To investigate the effects of this change on the perceptions and practice of occupational physicians.

Methods A cross-sectional survey of UK occupational physicians via the Society of Occupational Medicine e-newsletter, seeking their opinions of the anticipated and actual effects of the guidance on employers, employees, occupational physicians and occupational health services.

Results Two hundred and ninety-five completed questionnaires were returned (estimated response rate 30%). Respondents included 25% of accredited UK specialists. Some reported improved standards and greater transparency, however the change was generally perceived as unfavourable, with employee and employer losses: 50% reported delay providing timely advice to employers and 35% reported delays in employees returning to work. Significant variation in practice and increased costs were reported, with variable effects on different services. Difficulties in areas such as pensions and health surveillance were reported. Some occupational physicians had moved to instant reporting; others had moved away from this to allow more care with wording of reports.

Conclusions We found significant variations in practice between occupational physicians and concerns of employee and employer losses as a result of changes to the GMC consent guidance. Clearer guidance on practical implementation was desired. The background ethical reasoning should be stated so that the parameters of the guidance are delineated and its reach should be clarified.

Key words Confidentiality; consent; GMC guidance; occupational physicians; survey.

Introduction

In October 2009 the General Medical Council (GMC) issued updated guidance on Confidentiality: Disclosing information with consent [1] and introduced a new statement that employees should be offered the opportunity to view medical reports prior to them being sent to an employer [2,3]. The underlying ethical principles, such as openness, trust and good communication, remained the same. Some occupational physicians expressed concerns on practical and ethical grounds about the proposed change [4,5,6]. This survey investigated the perceptions of occupational physicians about the new guidance and its effect on their practice.

Methods Using an electronic questionnaire [7] (available as Supplementary data at Occupational Medicine Online), we collected demographic data and asked, using closed and open questions, about the anticipated effects and actual observed impact of the guidance on employers, employees, occupational physicians and occupational health (OH) services. The questionnaire could be accessed via a link in a brief article in two Society of Occupational Medicine (SOM) e-newsletters and was also sent via a separate email to those members of the SOM who had agreed to receive surveys in December 2010 and January 2011. Responses were received anonymously between December 2010 and February 2011. The study protocol
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was approved by the SOM Executive Committee and the North London REC 3 Research Ethics Committee.

Results
Two hundred and ninety-five responses were received, a response rate of about 30% as approximately 1000 SOM members agree to receive surveys. Seventy-three per cent of respondents were male, 81% were aged 45 years or over, and the average length of practice was 17 years. Two-thirds of respondents (66%) were MFOM or FFOM and 47% performed assessments on behalf of an OH provider and sent reports to the OH provider and not directly to the employer.

Two-thirds of respondents had anticipated an unfavourable impact on the employer (Table 1) but in practice only 38% felt there had been an actual impact. Seventy-one per cent of respondents said they had changed their policies and procedures, but only 22% had changed the way assessments were carried out. Fifty per cent of respondents felt there had been an unfavourable impact of the guidance on the business aspects of OH and 60% an unfavourable impact in terms of administrative time and costs. Further details of the impact of the guidance on service provision are given in Table 2.

Table 1. Respondents’ views of the anticipated and actual impact of the new GMC guidance on employers, employees and OH physicians.

<table>
<thead>
<tr>
<th></th>
<th>Unfavourable n (%)</th>
<th>Neutral n (%)</th>
<th>Favourable n (%)</th>
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<tbody>
<tr>
<td>Anticipated impact on:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employer</td>
<td>199 (68)</td>
<td>82 (28)</td>
<td>13 (4)</td>
</tr>
<tr>
<td>Employee</td>
<td>24 (8)</td>
<td>125 (42)</td>
<td>145 (49)</td>
</tr>
<tr>
<td>OHP</td>
<td>139 (47)</td>
<td>114 (39)</td>
<td>41 (14)</td>
</tr>
<tr>
<td>Actual impact on:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employer</td>
<td>112 (38)</td>
<td>165 (56)</td>
<td>17 (6)</td>
</tr>
<tr>
<td>Employee</td>
<td>30 (10)</td>
<td>172 (58)</td>
<td>92 (31)</td>
</tr>
<tr>
<td>OHP</td>
<td>106 (36)</td>
<td>144 (49)</td>
<td>44 (15)</td>
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</table>

Half (49%) of those sending reports to an OH provider believed the GMC guidance required them to offer to show the employee their report to the provider’s OH clinical team, in addition to offering prior viewing of the final report from the OH provider to the employer; two-thirds (68%) were doing this in practice.

The median time before sending the report to the employer, where the employee requested prior viewing was 2 days by email (ranging from 0 to >30) and 5 days by post (ranging from 0 to >30).

There were 589 free text comments received (available as Supplementary data at Occupational Medicine Online). Similar themes were raised for anticipated and actual impact of the new guidance with most respondents reporting a negative impact. Several comments suggested that the guidance was not being fully implemented or adhered to despite new policies and procedures.

Discussion
This survey found significant current variation between occupational physicians and uncertainty regarding best practice with regard to consent and confidentiality in occupational medicine, following the changes to GMC guidance. Initial perceptions were that the change would be unfavourable to employers and occupational physicians and favourable to employees, but the actual impact was somewhat more neutral. Practising occupational physicians requested further guidance on the practical implications of this guidance.

Some occupational physicians implemented the guidance by moving to ‘instant’ reporting (faster and cheaper); others moved away from this to allow more care with wording of reports. Positive impacts reported included improved openness, fewer employee complaints and improved consent procedures. However, there were difficulties and costs implementing the new guidance, and significant on-going costs that have potential negative implications for smaller clients and for certain types of work. Examples of employee

Table 2. Impact of the change in guidance on service provision

<table>
<thead>
<tr>
<th></th>
<th>Unfavourable n (%)</th>
<th>Neutral n (%)</th>
<th>Favourable n (%)</th>
</tr>
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<tbody>
<tr>
<td>The effect on meeting service level agreements of existing contracts?</td>
<td>104 (40)</td>
<td>154 (59)</td>
<td>5 (2)</td>
</tr>
<tr>
<td>Actual increase in administrative time/cost?</td>
<td>163 (62)</td>
<td>94 (36)</td>
<td>6 (2)</td>
</tr>
<tr>
<td>Practical implementation of changes to policies/procedures at short notice?</td>
<td>115 (44)</td>
<td>140 (53)</td>
<td>8 (3)</td>
</tr>
<tr>
<td>Actual delays in employees starting/returning to work?</td>
<td>92 (35)</td>
<td>165 (63)</td>
<td>6 (2)</td>
</tr>
<tr>
<td>Actual delays in delivering timely advice to employers?</td>
<td>131 (50)</td>
<td>127 (48)</td>
<td>5 (2)</td>
</tr>
<tr>
<td>Undermining of professionalism (discussing report with employee an obtaining verbal consent/agreement was already standard practice)?</td>
<td>75 (29)</td>
<td>155 (59)</td>
<td>33 (13)</td>
</tr>
<tr>
<td>Process more complex/cumbersome?</td>
<td>160 (61)</td>
<td>95 (36)</td>
<td>8 (3)</td>
</tr>
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<td>Actual misunderstanding/complaints by employees (only correction of factual information can be requested, the employee cannot ask for the occupational physician to change his or her opinion)?</td>
<td>86 (33)</td>
<td>146 (56)</td>
<td>31 (12)</td>
</tr>
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</table>
and employer personal and financial losses, such as termination of employment, delayed return to work and inability to award a pension were reported following implementation of the guidance. Many occupational physicians felt professionally unsupported during implementation. Some occupational physicians reported being unclear about the remit and scope of the guidance.

Respondents described perceived lack of consultation, lack of warning about the change, and inconsistent and incomplete advice from the GMC and the Faculty of Occupational Medicine (FOM) in certain areas such as pension applications and advice to subcontracted doctors. In fact, the GMC did consult on revisions to their guidance. Members of the FOM had an opportunity to respond to the consultation and the FOM did respond. Also, the FOM’s existing guidance [7] does refer to the circumstances in which the GMC guidance applies, including reports for pension purposes, and since the beginning of 2010 has included a facility for members to submit additional questions.

The majority of respondents made specific comments and clear themes emerged, and many of the points were raised by multiple participants. These factors add weight to the validity of the study findings. The opinions and experience of non-respondents to the survey, and of non-SOM members are unknown. Those who disliked the change may have been more likely to take part. Non-respondents may have had additional experiences not captured by this survey, which would have been of material interest to the wider OH community. It is possible that the framing of the closed questions could have influenced the responses. However, the first two questions were neutrally framed and would have been answered before the closed questions were seen.

The reported variations in interpretation of the guidance and in practice imply a need for further specific guidance, to ensure uniformity and quality of practice. The FOM’s existing guidelines [8,9] could be promoted and widened, with clarification from the GMC where applicable. Further consultation with practising occupational physicians might help to achieve this. The background ethical reasoning should be stated so that the parameters of the guidance are delineated.

### Key points
- There is significant variation in practice between occupational physicians following the changes to the General Medical Council guidance on consent when providing reports.
- There are examples of employee and employer losses as a result of implementation of the guidance.
- Clearer guidance on practical implementation would be useful.

### Funding

Nexus Healthcare Limited funded the SurveyMonkey survey.

### Conflicts of interest

None declared.

### References

2. Keegan M. GMC Standards and Ethics (email letter to Dr Coggon, FOM) copy of letter via personal communication from the Society of Occupational Medicine.