

## GMC position on Clause 4 of the draft Adult Protection Bill, March 2026.

Thank you for inviting us to set out our position on Clause 4 of the Adult Protection Bill.

To reiterate our overall view, we welcome and support the intent of the Bill, which is to prevent harm to vulnerable patients.

To summarise our view in relation to Clause 4, we are content with how the clause is currently drafted. However, this is subject to further important detail - relating to the exercise of professional judgement when making referrals, respecting patients' autonomy and confidentiality and working in partnership with individuals to make decisions in their best interests - being set out in accompanying statutory guidance, which we expect to be consulted on in due course. As we highlighted in our original written evidence, trust is an essential part of the relationship between patients and doctors, and confidentiality is central to this. Patients may avoid seeking medical help, or may under-report symptoms, if they think their personal information will be disclosed without consent, or without the chance to have some control over the timing or amount of information shared.

### How we arrived at our position in relation to Clause 4

In our written evidence, which we submitted in October 2025, you'll be aware that we expressed some concern with regards to how the duty to report would interact with our registrants' existing professional, ethical and legal duties to keep information confidential and respect the autonomy of individuals to make choices about their lives and welfare.

Without any supporting guidance to expand on the application of the duty in practice, on first reading, the text of the Bill seemed to set quite a blunt mandatory legal duty that would appear to require registrants to breach their patients' rights to confidentiality, no matter the level of harm or how it's being managed. We outlined our concerns about this in our written submission.

Following the closure of the call for evidence, we were invited to give oral evidence to the Committee for Health. As part of our preparations for this session, we carried out further scrutiny of the draft Bill including a more in-depth comparison with the Adult Support and Protection (Scotland) Act 2007 ('the Scotland Act') and the Social Services and Well-being (Wales) Act 2014 ('the Wales Act'), and their respective codes of practice. This was helpful in illuminating the ways in which the Bill might operate in practice.

Following on from this work, we submitted supplemental evidence in January, ahead of our oral evidence session, to reflect our latest understanding. This analysis set out how we expect doctors (and other professionals captured by the Bill) to exercise their professional judgment in deciding whether to make a referral of an adult at risk, by weighing the relevant considerations and applying them to the facts and circumstances of the individual case.

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In our view, this balancing exercise will include consideration of the duty to report in the respective pieces of legislation, the duty of confidentiality, relevant Convention Rights such as the Article 8 (right to private and family life), data protection legislation and relevant professional standards and guidance- such as our own, in the case of doctors, physician associates and anaesthesia associates.

We want to be clear that we see Clause 4 as allowing room for professional discretion when making referrals, and, that in some circumstances it may be justifiable *not* to refer an individual even where on the face of it, the grounds for referral are met. For example, where there is no risk of harm to others, the patient has capacity and does not consent to the referral, and the duty of confidentiality and the patient's right to privacy outweigh the duty to report in the circumstances.

Adult safeguarding is a complex area and often there are competing considerations which can make the decision-making process very challenging. In complex cases we would encourage our registrants to discuss with experienced colleagues and consider seeking advice from a Caldicott or Personal Data guardian or legal representative. We would also expect our registrants to document their discussions and decision-making process.

## **How we sought assurance from the Bill team that our analysis of Clause 4 is correct**

After our appearance at the oral evidence session, we reached out to the Bill team to discuss our supplementary evidence on a Teams call on the 27<sup>th</sup> February. At that call we gained verbal assurance from the Bill team that our analysis was correct and in line with the policy intention for the draft Bill. I have attached the correspondence following our meeting (where we confirmed the outcome of our discussion in writing) to this letter for your information.

We are therefore content with the drafting of Clause 4 as it stands, on the understanding that further detail to support decision making under the proposed legislation is clearly set out in accompanying statutory guidance. We expect to have further input into the draft guidance as part of the planned public consultation.

We remain committed to working with the Department on the development of the guidance and any implementation work to help make sure that the professionals on our register are aware of their responsibilities and how the Bill interacts with existing duties.

**From:** [REDACTED]

**Sent:** 19 March 2026 11:57

**To:** [REDACTED]

**Subject:** RE: Adult Protection Bill - follow up from our meeting on the 27th Feb 2026

Good morning [REDACTED]

Thanks for your email.

I can confirm that the understanding of Clause 4 that you have outlined below is in line with our policy intention. We have additionally taken some legal advice in this area, which has confirmed that the duty of confidentiality is not absolute; there are existing exceptions to it, and we consider that the duty to report in the Adult Protection Bill should be viewed similarly as the issues being reported would be matters of public safety. As you note, it is a balancing act for professionals to consider their obligations in considering the person's safety, along with their EC rights, as well as data protection legislation.

The clause as drafted provides latitude for professionals to use their judgement in considering when reports should be made and we are eager to ensure that all professionals named receive appropriate guidance and training to support that decision-making. Our Statutory Guidance is currently being developed, and it will be subject to a full public consultation. We will ensure that the GMC are included in this process.

Many thanks

[REDACTED]  
Head of Adult Safeguarding Unit  
Disability and Older People's Directorate  
Department of Health  
Room C3.24  
Castle Buildings  
Stormont Estate  
BT5 3SQ

Tel. [REDACTED]

Mob. [REDACTED]

**From:** [REDACTED]

**Sent:** 19 March 2026 11:41

To: [REDACTED]

Cc: [REDACTED]

**Subject:** Adult Protection Bill - follow up from our meeting on the 27th Feb 2026

Dear [REDACTED]

It was great to see you and your colleagues recently to discuss the Adult Protection Bill (Northern Ireland), following our evidence to the Health Committee earlier in the year. Thank you very much for making the time to speak to us.

When we met, we were keen to confirm our understanding of the policy intention behind the draft legislation. We also wanted to check that the steps we anticipate a health professional should follow when deciding whether to share information about a patient, which we set out in our supplementary evidence to the Bill Committee, was correct (a copy of this is attached for reference).

As you know, when we initially discussed this legislation with you last year, we shared our concerns about how a duty to report might interact with the duty of confidentiality, should it place a mandatory duty to share information about adults at risk in all circumstances. However, following further analysis and discussion, we understand that your intention is that health professionals should exercise their judgment in deciding whether to refer by weighing the relevant considerations and applying them to the facts and circumstances of the individual case. We anticipate this balancing exercise would include consideration of the duty to report in clause 4 of the Bill, the duty of confidentiality, relevant Convention Rights such as Article 8 (right to private and family life), data protection legislation and relevant professional standards and guidance (including our guidance in the case of doctors, PAs and AAs).

When we spoke last month, you drew attention to the current draft wording of clause 4(2), which sets out 'Where the person or body to which this section applies has reasonable cause to suspect that a person is an adult at risk **and that action needs to be taken in order to protect that person from harm the body or person must report**' [my emphasis]. As you explained, this makes clear that a report must be made not only if the adult is at risk, but also if it is judged that action needs to be taken to protect the person. So if an individual doesn't want a report to be made, and a professional feels the patient would be better supported by not referring and instead by safeguarding in a different way, the professional will be able to make that judgement. You confirmed that you will provide further detail and guidance about the different factors that might be relevant to making decisions about sharing information under clause 4(2) in the statutory guidance that will follow the legislation. As we mentioned, we are keen to help wherever we can as you develop this and we look forward to continuing discussions on this as you progress this.

We'd be very grateful if you could confirm our understanding of this as I've summarised here so we can give a confident that we can give an informed view when we are asked about our stance on the Bill.

Kind regards,

[Redacted]

[Redacted]

Policy Manager- Standards and Ethics  
General Medical Council  
3 Hardman Street, Manchester, M3 3AW

Email: [Redacted]

Website: [www.gmc-uk.org](http://www.gmc-uk.org)

Tel: [Redacted]

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Y Cyngor Meddygol Cyffredinol

Rydym yn gweithio gyda meddygon, cymdeithion meddygol (PA), cymdeithion anesthesia (AA), y rhai y maent yn gofalu amdanynt a rhanddeiliaid eraill i gefnogi gofal da a diogel i gleifion ledled y DU. Rydym yn gosod y safonau y mae angen i feddygon, cymdeithion meddygol, cymdeithion anesthesia a'u haddysgwyr eu bodloni, ac yn eu helpu i'w cyrraedd. Os oes pryderon na fydd y safonau hyn yn cael eu bodloni o bosibl, neu y gallai hyder y cyhoedd mewn meddygon, cymdeithion meddygol neu gymdeithion anesthesia fod mewn perygl, gallwn ymchwilio, a chymryd camau os oes angen.

Efallai fod y neges e-bost hon yn cynnwys gwybodaeth freiniol neu gyfrinachol, y dylid ei defnyddio at y diben cafodd ei hanfon ar ei gyfer yn unig.

Os nad chi sydd i fod i'w dderbyn, neu os ydych chi wedi cael yr e-bost hwn mewn camgymeriad, peidiwch â'i ddarllen, ei argraffu, ei ail-drosglwyddo, ei storio na gweithredu gan ddibynnu ar y neges nac unrhyw atodiadau. Anfonwch yr e-bost at yr anfonwr ac yna ei ddileu ar unwaith.

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