

# Specific Standards on Contacting Patients

## Introduction

The aim of these Standards is to facilitate media contact with people in hospitals and residential care facilities, while also ensuring respect for the health, dignity and privacy of those people and their families and for the general provision of care on the premises. In particular, the Standards aim to

- prevent unreasonable exclusion of journalists from hospitals;
- promote a co-operative approach between journalists and hospitals;
- prevent inappropriate contact by journalists with a patient who is in a vulnerable position;
- prevent undue intrusion by journalists on other patients and hospital staff.

The Standards apply to contact by journalists with patients who are in hospitals and residents in other care facilities. They do not apply to visits which do not involve contacting those people. All publisher members of the Press Council have made a legally-binding commitment to these Standards and all of the Council's other Standards of Practice.

The Standards are based on several of the Council's General Principles and Privacy Principles, namely those requiring publications to take reasonable steps to:

- avoid intruding on a person's reasonable expectations of privacy, unless doing so is sufficiently in the public interest (General Principle 5);
- avoid causing or contributing materially to substantial offence, distress or prejudice, or a substantial risk to health or safety, unless doing so is sufficiently in the public interest (General Principle 6);
- avoid publishing material which has been gathered by deceptive or unfair means, unless doing so is sufficiently in the public interest (General Principle 7);
- show respect for the dignity and sensitivity of people encountered in the course of gathering news (Privacy Principle 1);
- allow a victim or bereaved person to refuse or terminate an interview or photographic session, and not exploit a person caught up in newsworthy events (Privacy Principle 7).

## Specific Standards on Contacting Patients

### Informed consent from the patient

*[\* means see Explanatory notes below]*

1. Before making any contact\* with a patient\* in hospital\*, journalists\* should obtain the patient's informed consent unless
  - (a) the activity is an initial communication from outside the hospital for the purpose of seeking informed consent\*; or
  - (b) an authorised person\* confirms to them that informed consent has been given by the patient; or
  - (c) an authorised person has approved the contact on condition that no patient will be identifiable in any published material.
2. Journalists are responsible for establishing any claim by them that it was reasonable to believe informed consent has been given by the patient. This may often be difficult to achieve unless medical or other expert advice has been sought on the matter and been recorded.

### **Permission to visit the patient**

3. Before visiting a patient in a part of the hospital in which patient care occurs, journalists should identify themselves and their publication to an authorised person and obtain permission for the proposed visit. However, making contact without permission is acceptable if doing so is clearly necessary as a matter of substantial public importance and has been approved at senior editorial level for recorded reasons.
4. Journalists are responsible for establishing any claim by them that
  - (a) they obtained permission from a person whom it was reasonable to believe was an authorised person; and
  - (b) they made adequate disclosure to that person of the nature and purpose of the proposed contact.
5. Where the hospital has given permission to visit the patient, it is reasonable for the journalist to assume the patient is in a medical condition which enables informed consent to be given. When visiting the patient, however, it will still be necessary for the journalist to explain the nature of what is being sought from the patient and obtain informed consent.

### **Ceasing contact with the patient**

6. Journalists should immediately cease the contact if they are
  - (a) asked to do so by the patient, or by an authorised person on reasonable grounds; or
  - (b) it becomes reasonably clear that the patient is not adequately aware of what the contact involves and its likely consequences.

### **Explanatory Notes**

“**Authorised person**” means a person authorised by a hospital to make decisions about journalists making contact with patients. Unless clearly indicated otherwise by the hospital, the person must be a senior administrator or a senior health professional.

“**Contact**” includes speaking, listening, looking or touching and communicating in any other way with a patient.

“**Hospitals**” includes hospitals, day surgeries and residential facilities providing care for people who are aged, have disabilities or are especially vulnerable for some other reason.

“**Informed consent**” exists where a patient agrees to a request for contact while having a reasonable understanding of the proposed contact, including the issues to be raised, and any consequences for the patient which are reasonably foreseeable. It must be given clearly and without pressure and it must relate to the contact and occasion in question unless there is good reason to believe that an earlier consent continues to apply.

Informed consent cannot be given by another person unless he or she is legally authorised to act on the person’s behalf. However, it may be reasonable to take into account a statement by a close relative, friend or representative that the patient has provided informed consent, or that the patient is in a fit state to provide informed consent. Where the patient is not able to provide informed consent and no one is legally authorised to act on his or her behalf, informed consent for the taking of photographs (but not other forms of contact) may be obtained from a close relative or, where applicable, by police.

“**Journalists**” includes journalists, photographers and other people involved in gathering information, opinion or images for possible inclusion in publications that are subject to the Council’s jurisdiction.

“**Patients**” includes patients and residents, and any person legally authorised to act on their behalf.