

## Conscientious Objection

Conscientious objection has always been a challenging topic in clinical practice. Many doctors may be unaware as to what constitutes a conscientious objection. Deeply held religious and personal beliefs may conflict with some aspects of medical practice; however, doctors cannot make moral judgements on behalf of their patients. Such clinical scenarios may include termination of pregnancy, requests for contraception or fertility treatment. The introduction of the *Health (Regulation of Termination of Pregnancy) Act 2018* highlighted the need for clarity in this area. This factsheet is aimed at highlighting the key issues surrounding conscientious objection and providing practical guidance to ensure that the care needs of patients are met, whilst respecting an individual doctor's ethical or moral beliefs.

## Meeting the needs of patients

All doctors should be aware of their ethical obligations as set out in the Medical Council's *Guide to Professional Conduct and Ethics for Registered Medical Practitioners 8<sup>th</sup> edition (amended 2019)*; available on the Medical Council website.

Doctors have a professional duty to act in the best interests of their patients. As a doctor you should be aware that a patient may be in a position of vulnerability and you will need to act appropriately to ensure they are given access to treatment or services that they require. The Medical Council provides clear guidance on meeting patients' needs where a conscientious objection arises. Paragraph 49 of the Guide provides:-

*49.1 Subject to compliance with paragraphs 49.2 - 49.7 below, you may refuse to provide, or to participate in carrying out, a procedure, lawful treatment or form of care which conflicts with your sincerely held ethical or moral values.*

*49.2 If you have a conscientious objection to a treatment or form of care, you should inform patients, colleagues, and, where relevant, your employer as soon as possible.*

*49.3 If you hold a conscientious objection to a treatment, you must:*

- *inform the patient that they have a right to seek treatment from another doctor; and,*
- *give the patient enough information to enable them to transfer to another doctor to get the treatment they want.*

When arranging transfer of care to another clinician the Ethical Guide states:

*49.4 When you refer a patient and/or facilitate their transfer of care, you should make sure that this is done in a safe, effective and timely manner. You should help make it as easy as possible for the patient. When discussing the referring and/or transferring of a patient's care to another health professional, you should be sensitive and respectful so as to minimise any distress your decision may cause. (See paragraph 8 – Equality and Diversity.) You should make sure that patients' care is not interrupted and their access to care is not impeded.*

*49.5 You should not provide false or misleading information, or wilfully obstruct a patient's access to treatment based on your conscientious objection.*

*49.6 If the patient cannot arrange their own transfer of care, you should make these arrangements on their behalf.*

*49.7 In an emergency situation, you must provide – as a matter of priority – the care and treatment your patient needs.*

## Practical tips- disclosing conscientious objection

As set out in the Ethical Guide, doctors who hold a conscientious objection **should** inform patients, colleagues, and, where relevant, your employer as soon as possible; “should” is used to describe best practice in most circumstances, accepting that it may not always be practical to follow the principle or that another approach may be appropriate in particular circumstances and doctors should use their judgement in such cases.

The following points may be of assistance when considering the timing of a disclosure by a doctor of their sincerely held belief:-

### 1. Informing patients:

- A conscientious objection may arise when a patient requests a particular treatment; in such instances the doctor should inform the patient of their sincerely held ethical or moral view and proceed to refer the patient to another healthcare professional to ensure the patient’s care needs are met. It is important to ensure that the patient has sufficient understanding of the reasons for the transfer of their care for this particular medical need. It is also important to carefully document this discussion with the patient.

### 2. Informing colleagues:

- A doctor may be aware of the ethos of a practice and it may be necessary to inform colleagues in the practice regarding any sincerely held ethical or moral values in order to ensure adequate staffing levels to meet patients’ care needs.
- The introduction of *Health (Regulation of Termination of Pregnancy) Act 2018* has led to open discussions regarding conscientious objection and clinicians are advised that it is best practice to disclose their views to their colleagues in confidence, as per paragraph 49 of the Ethical Guide.

### 3. Informing employer:

- Employers and employees should consider any possible employment law implications that may arise and any discussions/advices that may be necessary as a result of disclosing a conscientious objection.

If you have any specific queries in relation to conscientious objection, please contact a member of the Medisec team to discuss further.

“The contents of this publication are indicative of current developments and contain guidance on general medico legal queries. It does not constitute and should not be relied upon as definitive legal, clinical or other advice and if you have any specific queries, please contact Medisec for advice”

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