

Case Discussion - Issues to consider

- The value of the duty of confidentiality owed to Ben by those involved in his clinical care (the GP, cardiologist etc)
- Respect for patient choice
- Is the risk to others (including Ben's brother, Paul) so great that it justifies breaching confidentiality?
- What will be the benefit of disclosing the information – can serious harm be prevented? To whom should the information be disclosed?
- What are the consequences for Ben if information is disclosed in the face of his refusal? Consequences for others.
- Respecting the autonomy of others – Paul and other relatives, Paul's employer, future airplane passengers
- The right to know/ the right not to know

Duty of confidence

Ben is owed a duty of confidentiality by those treating him. In the interests of Ben's care information about his condition will have been shared with professional colleagues. However, Ben's health information cannot be disclosed to others without his consent unless this can be justified by balancing the harms of disclosure against the benefits. Given the importance of the need to maintain confidentiality in health care, in order that patients feel they can speak freely when seeking treatment, the standard of harm necessary to justify a breach of confidentiality is high. An assessment should be made of the likelihood of risk of sudden cardiac death and whether there are effective treatments or therapies.

Respect for Ben's choice that his brother is not informed

Genetic information is particularly sensitive given its impact on employment and reproductive choices and (potentially) insurance issues. However, respect for Ben's decision that Paul and other family members are not informed may be at odds with respect for the autonomous choices of others. The benefits/harms of disclosure to Ben's family should be discussed with him. It could be argued that Ben is in a better position to know what his brother would want (what would be in his best interests) than the cardiologist who has never met Ben's brother.

Respect for the autonomy of others

Ben has assumed that Paul would not want to know of the family risk of sudden cardiac death, particularly because of the implications for his employment as a pilot. But Paul will be denied the opportunity to make certain decisions about his future, both personally and professionally, unless he has relevant information about the possibility of his genetic condition. Paul could undergo tests to establish whether he is at risk. This will enable him to make important life choices, including whether to have children and, if he does have children, the implications of assessing their risk. If Paul is at risk of sudden cardiac death this carries potential serious risks for passengers on any plane that he flies. Does Paul carry the same risk as Ben (4%)? If so, then although this risk is not statistically high, the potential serious harms to passengers may justify disclosure.

If disclosure in breach of confidentiality is considered justified – to whom should the information be disclosed? Paul/ Paul's GP/ other relatives at immediate risk/Paul's employer?