



“Am I prepared?”
“Can I adapt?”
“Is it appropriate”
“Am I protected?”



Telemedicine:

Practising safely and with confidence

I am a GP

I am with
Medical Protection

This toolkit is designed to help you understand and reflect on medicolegal issues relating to telemedicine, so you can address them in your own practice.

It explores some of the medicolegal considerations relating to telemedicine, remote consulting and e-prescribing, and offers practical suggestions and sources of further information.

It is not intended to be a substitute for expert 1-2-1 medicolegal advice. If you have any specific medicolegal or ethical questions, concerns or dilemmas arising from your practice, including telemedicine, **it is always advisable to seek advice from your medical defence organisation.**



About Medical Protection

Medical Protection is a trading name of The Medical Protection Society Limited (“MPS”). MPS is the world’s leading protection organisation for doctors, dentists and healthcare professionals. We protect and support the professional interests of more than 300,000 members around the world. Membership provides access to expert advice and support and can also provide, depending on the type of membership required, the right to request indemnity for any complaints or claims arising from professional practice.

Our in-house experts assist with the wide range of legal and ethical problems that arise from professional practice. This can include clinical negligence claims, complaints, medical and dental council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal accident inquiries.

Our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. We do this by promoting risk management through our workshops, E-learning, clinical risk assessments, publications, conferences, lectures and presentations.

MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association.

What is telemedicine?

Telemedicine is the remote provision of healthcare services by:

- telephone
- video or internet-based ‘virtual consulting’
- e-prescribing
- teleradiology/radiology/dermatology
- telemonitoring (of vital signs)/wearables

The Department of Health began widescale roll-out of telehealth over a six-year period in 2011, and in 2019 pledged to give all patients access to GP video consultations by 2021.

The events of 2020 significantly accelerated this timeline. Telemedicine arrangements, including video consultations, became vital in ensuring patients were able to access clinical care during the COVID-19 pandemic. Although more face-to-face consultations are now taking place, we can expect telemedicine to play a more prominent role in both primary and secondary care in future.

Carried out in the right circumstances, remote consultations (by video or phone) and prescribing online can benefit patients, save resources and help meet public demand for more convenient access to healthcare. The [GMC believes](#) telemedicine can offer a streamlined service for both healthcare providers and patients, reducing the time needed for a consultation, and that when used in the right circumstances most patients do not see any difference in the quality of care provided via telemedicine.

But alongside this, doctors and regulators have legitimate concerns about the potential for medicolegal risks to become more pronounced in the practice of telemedicine.

What are the issues?

A major concern for doctors is the challenge of maintaining the same standard of care as they would in a face-to-face consultation. They worry that a lack of visual cues and physical examination, along with increased reliance on the patient for an accurate history, could lead to poorer outcomes and something being missed.

Communication can be more challenging remotely, both for GPs and patients. It can be harder to ensure they are 'on the same page' when it comes to management advice and safety-netting, particularly so for patients with language barriers. And while many patients appreciate the flexibility of a remote consultation, some may feel their level of care is reduced.

Some of the concerns [identified by the GMC](#) in relation to telemedicine include:

- adequate verification of the patient's and practitioner's identities
- adequate referral policies
- ensuring privacy, confidentiality and security of personal data and medical records
- reliability of ICT equipment, including network reliability and image quality
- potential for incorrect diagnosis or treatment, eg due to non-physical examination or low-quality images
- remote prescription of drugs without either proper examination or access to the patient's medical history.

The good news is that, with awareness of the risks and careful consideration and planning, you can put safeguards in place to protect your patients and avoid potential medicolegal and regulatory issues arising.

GMC guidance

The GMC has established ten [high level key principles](#) that they expect registered healthcare professionals to follow when providing remote consultations and prescribing remotely. The guidelines are underpinned by existing standards and guidance from professional and system regulators. The GMC says: “Healthcare professionals should continue to follow guidance from regulatory bodies and take clinical guidance into account in their decision making.”

1. Patient safeguards

Make patient safety the first priority and raise concerns if the service or system you are working in does not have adequate patient safeguards including appropriate indemnity and verification checks.

2. Vulnerable patients

Understand how to identify vulnerable patients and take appropriate steps to protect them.

3. Professionalism

Tell patients your name, role and (if online) professional registration details, establish a dialogue and make sure the patient understands how the remote consultation is going to work.

4. Prescribing

Explain that:

- you can only prescribe if it's safe to do so
- it's not safe if you don't have sufficient information about the patient's health or if remote care is unsuitable to meet their needs
- it may be unsafe if relevant information is not shared with other healthcare providers involved in their care
- if you can't prescribe because it's unsafe you will signpost to other appropriate services.

5. Consent

Obtain informed consent and follow relevant mental capacity law and codes of practice.

6. Consultation

Undertake an adequate clinical assessment and access medical records or verify important information by examination or testing where necessary.

7. Communication

Give patients information about all the options available to them, including declining treatment, in a way they can understand.

8. Aftercare

Make appropriate arrangements for aftercare and, unless the patient objects, share all the relevant information with colleagues and other health and social care providers involved in their care, to support ongoing monitoring and treatment.

9. Record keeping

Keep notes that fully explain and justify the decisions you make.

10. Professional development

Stay up-to-date with relevant support and guidance for providing healthcare in a remote setting.



Practising telemedicine safely

Information governance

An effective remote consultation depends on appropriate, secure technology. In general terms, you should ensure you are using a platform that allows the safest solution in the circumstance and should be mindful of data protection laws and maintaining patient confidentiality. You should seek advice from the organisation you work in, including within the private sector. But if this is not possible it's appropriate to follow the guidance provided by NHS authorities. Remember the use of any app or platform should be agreed with the patient.

For a remote video consultation to work you'll need to ensure both yourself and the patient are competent and comfortable using the technology. If the patient isn't confident, they may want to ask someone to help them or you may decide not to proceed remotely.

Telemedicine setting

You need to maintain privacy and patient confidentiality and help the remote consultation go as smoothly as possible, so take some time to ensure you have the right set up. Check the technology is working properly, and that for video consultations you are well lit and at eye level with the camera

if possible. Make sure you won't be interrupted and be mindful of the patient's setting as well. Check they are able to share information safely and confidentially eg that they are not driving or on public transport.

Don't be tempted to see telemedicine as an opportunity to fit calls in between other tasks. This can lead to poor interactions, with limited information and inappropriate outcomes, so make sure time for remote consultations is formally allocated.

Identity and verification

It is essential that you can identify and verify the patient you are consulting with to prevent any breaches of confidentiality. Make sure your patient is who you think they are and verify with information such as their address or date of birth. Your patient should also be able to identify you, so don't forget to introduce yourself.

Consent

It's important that patients understand why you're consulting remotely and any limits this might place on the consultation. You need your patient's consent to undertake the consultation

remotely but this doesn't have to be written consent. If your patient has indicated they are happy to proceed once you've explained the process, and they have confirmed their use of the particular app or platform, then you can document this and carry on.

It's also worthwhile checking if there is anyone in the room with the patient, especially if the consultation is for a vulnerable person. A third-party presence can be helpful when additional support is required, however be alert to situations when there could be undue influences on the patient without their consent.

If an adult lacks capacity, you should obtain consent from someone with authority to act on their behalf for healthcare decisions, including the procedures being proposed. Only proceed with the consultation if it is in the patient's best interests to do so. Don't assume that a third party has this authority without checking and document the name of anyone present and their relationship to the patient.

Safety

It's important for patient safety and managing your own risk that you consider each remote consultation in terms of whether it's appropriate for the patient and their circumstances.

Remote consultations lend themselves very well to triaging patients and follow-up of patients who do not require face-to-face assessments; during the pandemic, doctors adapted to all kinds of patient needs.

NHS England has [detailed guidelines](#) on their website for different types of clinical examinations you may need to undertake, and key considerations. These are not intended to replace your professional judgement. If certain examinations are required, you don't have full access to medical records or you feel that telemedicine is not safe for another reason, you should have the confidence to end the remote consultation and request to see a patient in person.

GP practices should also have systems to identify potentially vulnerable patients, including recognising patterns of behaviour that may indicate serious concerns, so that appropriate steps can be taken to protect patients. Particularly vulnerable patients may include those at risk of self-harm, substance or drug use disorders, those with long term conditions, and children attempting to access services intended for adults.

Possible reasons to defer or move to an in-person appointment

- seeing a new patient for the first time
- not having access to a patient's medical records
- having capacity or safeguarding concerns
- needing to examine the patient physically
- experiencing technical problems
- thinking a confidentiality breach is possible
- language barriers preventing proper communication.

Remember to document your decision whether you choose to proceed, defer or request an in-person appointment.

You should also have a contingency plan in mind in case the technology fails or you decide a remote consultation is no longer appropriate. It is better to have thought about possible scenarios and the action you would take in advance, rather than when something goes wrong.

Safeguarding

It is important to be alert to safeguarding issues in a remote consultation context. [NHS England](#) says that during consultations you should be professionally curious and consider whether the patient could be experiencing significant harm and safeguard appropriately. If you have safeguarding concerns you should opt to move to a face-to-face assessment if possible. Your practice should ensure safeguarding and chaperone policies cover remote consultations.

Practical tips for safeguarding children, families and vulnerable adults during COVID-19

- Check who else is in the house/room when you are consulting
- Ask what support they have, how they are managing with isolation/schools closing/social distancing
- Ask if they feel safe
- Consider use of 'closed' questions when asking about safety – questions with 'yes/no' answers may help a victim of domestic abuse share that they are being harmed
- Encourage and promote ongoing social support and contact with their friend and family
- For families with young babies share the [ICON message](#)

Source: [RCGP Learning](#)

Communication

Being able to engage with someone face-to-face and assess their non-verbal cues and subtle clinical signs is an important part of patient care, and clinicians may worry that a telephone or video consultation can compromise patient safety. Keep these communication tips in mind to reduce the risk of problems occurring due to misunderstandings.

- Make sure you use language that can be easily understood.
- Avoid using medical terminology where possible.
- Summarise management plans to avoid confusion or misinterpretation.
- Allow patients to clarify or ask questions.
- Make use of online resources, eg the [NHS website](#), to encourage patients to self-manage and follow safety-netting advice.
- Create eye contact during video consultations by looking into the camera at regular intervals, as well as at the patient as they appear on your screen.

Record keeping

It's always important to have a good record of why decisions have been made in relation to a patient's care and treatment, but it becomes especially important in the context of telemedicine. When you can't examine a patient in person, you may have to rely more on their history and previous investigations, and having a good record of the consultation can help you reduce any risk associated with this. A doctor's actions may be called into question a long time after a consultation, sometimes several years later, so your notes are vitally important in helping you explain the context and your rationale at the time.

What should be in your notes?

- Note that it is a telephone or video consultation and not face-to-face.
- Explanations given to the patient about why a remote consultation was undertaken.
- The patient's consent to the remote consultation.
- Presenting complaint, history and symptoms.
- Any examinations/observations that were possible.
- Management plan and advice given to the patient.
- Follow-up arrangements/safety-netting.
- Whether a referral or face-to-face appointment is needed.

If you record a telephone or video consultation (securely and with the patient's consent) this forms part of the patient record as well.

Is a remote consultation appropriate for children and young people?

As with remote consultations for adults, this is a matter of professional judgement. For children, if you feel you can discuss the complaint fully with the parents and make a reasonable assessment of the child, it may be appropriate in certain circumstances. As with adults, there is a number of reasons you may decide a face-to-face consultation would be more appropriate. Have a plan in place to deal with this. Remember to keep a record of your decision and rationale.

For young people under 16, the [RCGP says](#) you should approach video consulting as you would a face-to-face consultation, assessing their ability to make decisions using the principle of Gillick competence. Determine whether the patient can give informed consent to medical treatment without the knowledge or permission of their parents and whether this is in their best interests. If the young person has capacity to consent, you can still confirm whether they would like another person present and encourage them to involve their parents or legal guardian in any decision making. For children who do not have the competence to consent, then consent would need to be sought from someone who has parental responsibility (or delegated parental responsibility), unless it is not in the child's best interest.

Prescribing

The [GMC says](#) it is important for healthcare professionals and employers to consider the limitations of remote services when deciding the scope of practice and range of medicines prescribed. Some categories of medicines are not suitable to be prescribed remotely unless certain safeguards are in place. The General Pharmaceutical Council has produced [guidance](#) explaining that pharmacies based in England, Scotland and Wales may not supply these categories of medicine without having an assurance that these safeguards are in place. The Pharmaceutical Society of Northern Ireland provides standards and guidance on internet pharmacy services for pharmacies based in Northern Ireland.

Indemnity

Some doctors have reported feeling worried that providing remote care and consultations can leave them and their patients more exposed to risk and possible mistakes.

Make sure your indemnity and protection arrangements are up-to-date so you have access to support if your decisions are scrutinised or criticised.

The Clinical Negligence Scheme for General Practice (CNSGP) in England, and its Welsh equivalent, covers primary care services commissioned under a primary care contract, where these services are provided directly or under a direct sub-contract. In addition to this, the Coronavirus Bill 2020 committed to providing indemnity for clinical negligence liabilities arising from NHS activities carried out for the purposes of dealing with, or because of, the coronavirus outbreak, where there is no existing indemnity arrangement in place.

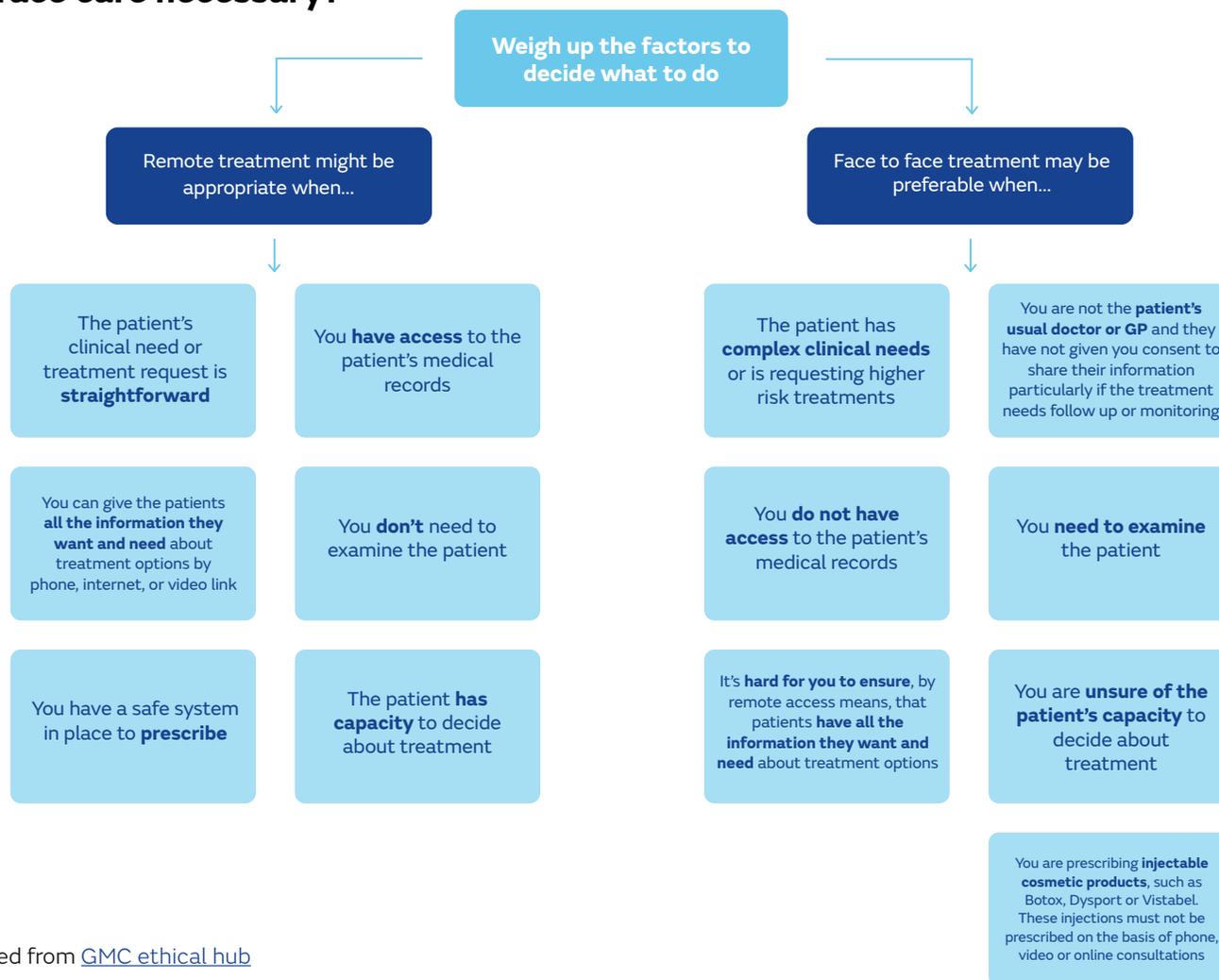
Doctors in Scotland and Northern Ireland are liable for their own clinical negligence indemnity arrangements and all doctors are advised to have medical defence organisation (MDO) membership to provide protection for medicolegal problems other than patient claims, such as regulatory issues and coroner inquests or fatal accident inquiries.

Approaches to remote consultations may vary between defence organisations, so it is important you contact your MDO for guidance. You can read about Medical Protection membership and [remote consulting arrangements](#) on our website. But some general principles to follow are:

- Be aware of local and national guidance.
- Know where the patient is based – consulting with a patient outside the jurisdiction where you hold membership could affect your right to assistance.
- Be sure you have the skills and competence to carry out the duties you are asked to undertake, and raise any concerns or doubts.
- Try to ensure you have access to the patient's medical records.
- If you are uncertain about a decision it can be a good idea to discuss it with colleagues. You are less likely to be criticised if you act in a way that a reasonable number of doctors would in the same circumstance.

GMC remote consultations flow chart

Is face-to-face care necessary?



Graphic reproduced from [GMC ethical hub](#)

Telemedicine checklist

- Review the GMC guidance – ten high level principles
- Have an advance plan for referrals and emergencies
- Check your audio or video equipment is working
- Check medical records if possible
- Always verify the patient's identity and introduce yourself
- Explain why you are undertaking a remote consultation and possible limitations
- Gain the patient's consent to proceed
- Assess the safety of a remote consultation at the beginning and throughout
- Have a contingency plan in case you need to defer or move to face-to-face consultation
- Make your assessment as complete as possible
- Consider whether the outcome is safe for the patient
- Check the patient's understanding
- Practice detailed record keeping
- Make explicit follow-up arrangements/safety-netting advice



Useful resources

BMA

[COVID-19: Video consultations and homeworking](#)

Digital Health and Care Scotland

[Video consultation checklist for clinicians](#)

GMC

[Ethical hub: Remote consultations](#)

IRISi

[Guidance for general practice teams: Responding to domestic abuse during telephone and video consultations](#)

National Association of Sessional GPs

[Remote working in general practice](#)

NHS Digital

[The Identity and Verification standard for Digital Health and Care Services \(2018\)](#)

NHS England

[Principles for supporting high quality consultations by video in general practice during COVID-19](#)

RCGP

[Key principles for intimate clinical assessments undertaken remotely in response to COVID-19](#)

RCGP

[Remote consultation and triaging](#)

Royal College of Psychiatrists

[COVID-19: Remote consultations](#)

Reading and research

BMJ (2015)

[Virtual online consultations: advantages and limitations \(VOCAL\) study](#)

BMJ (2017)

[Telehealth and patient satisfaction](#)

Elsevier (2020)

[Pitfalls in telemedicine consultations in the era of COVID 19 and how to avoid them](#)

National voices (2020)

[The doctor will zoom you now: Getting the most out of the virtual health and care experience](#)

GMC (2018)

[Regulatory approaches to telemedicine](#)

PLOS ONE (2019)

[Systematic review of patient and caregivers' satisfaction with telehealth videoconferencing as a mode of service delivery in managing patients' health](#)

Royal College of Psychiatrists

[COVID-19: Remote consultations](#)

Medical Protection Risk Prevention Service

- [Remote consulting in the time of COVID-19](#) webinar recording
- [CPD-accredited short courses and webinars](#) (for members) with topics include consent, confidentiality, mental capacity, triage and medical records
- COMING SOON (September 2020): A four-part webinar series on remote consulting
 - Research and real-world experiences of remote consulting
 - Reducing the risk of adverse outcomes
 - Practical top-tips and key communication skills
 - Managing difficult patient interactions, such as unrealistic expectations
 - Communicating effectively with colleagues regarding patient interactions
 - Documentation related to remote interactions
 - Panel Q&A and live discussion

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