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Dear Colleague

## OUTBREAK OF ANTHRAX IN HEROIN INJECTING DRUG USERS Confidentiality and Data Sharing Requirements

1. Further to any previous alerts you have received, I am writing to you now to reinforce the need for NHS Boards to share information in relation to anthrax investigations with police and Crown Office colleagues.

2. The anthrax outbreak is continuing. The latest position is that there have been 17 confirmed cases of the disease in drug users, and a total of 8 deaths. Both confirmed cases and deaths have occurred in a number of NHS Boards and it is very possible that we will continue to see cases across Scotland for some time.

3. The Outbreak Control Team, which is being led by Health Protection Scotland on behalf of the Scottish Government, has put in place procedures to gather the relevant information in relation to every case that emerges from NHS Boards. This information is of vital importance in monitoring the public health implications of this outbreak.

4. I would ask all NHS Boards who are engaging with the ongoing investigation to ensure that they comply with the requirements of the Outbreak Control Team in relation to data sharing. This is a necessary public health investigation sanctioned by the Scottish Government.

5. The investigation of this outbreak and the potential to control the risk of future infection and death of this vulnerable population depends on investigation and control measures that span a number of agencies, including Police services.

6. Doctors will find recent GMC guidance "Confidentiality: disclosing information about serious communicable diseases" (September 2009) helpful in the context of this outbreak. This is easily accessed on the GMC website. It is important to read this guidance as a whole but I would highlight the following sections:

**From the Chief Medical  
Officer**  
**Dr Harry Burns MPH**  
**FRCS(Glas) FRCP(Ed)**  
**FFPH**

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### Addresses

#### For action

- Directors of Public Health
- CPHM (CD&EH)
- Medical Directors for circulation to all staff in A&E Depts, Intensive Care units, High Dependency Units and Microbiologists
- All General Practitioners including practice nurses, non-principals and Out of Hours services
- NHS 24
- Scottish Ambulance Service
- Scottish Drugs Forum for cascade to services for drug users
- Crown Office for circulation to Procurators Fiscal

### Further Enquiries

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“Personal information may therefore be disclosed in the public interest without the patients’ consent, and in exceptional cases where patients have withheld consent, if the benefits to an individual or to society as a whole outweigh both the public and patient’s interest in keeping the information confidential.”

“Disclosure of personal information about a patient without consent may be justified in the public interest if failure to disclose may expose others to risk of death or serious harm”

“You should pass information about serious communicable diseases to the relevant authorities for the purpose of communicable disease control and surveillance. You should use anonymised or coded information if practicable and as long as it will serve the purpose”

7. NHS colleagues may also find it helpful to refer to the information sharing protocol NHS Scotland and the Scottish Police Forces which was issued on 13 March 2008 (and which can be accessed at [http://www.sehd.scot.nhs.uk/mels/CEL2008\\_13.pdf](http://www.sehd.scot.nhs.uk/mels/CEL2008_13.pdf)). The protocol explicitly address public health issues and patient confidentiality and states:

*“Information held in confidence can still be disclosed without the individual’s consent, where it can be demonstrated that:*

- it needs to be shared by law*
- it is needed to prevent, detect or prosecute crime*
- there is a public interest*
- there is a risk of death or harm*
- there is a public health interest*
- it is in the interests of the person’s health*
- it is in the interests of the person concerned”*

8. I would also remind Boards that both police colleagues and the Crown Office are fully involved in the national Outbreak Control Team and both organisations have recognised that the public health investigation is paramount. COPFS has agreed that information given by anthrax victims to public health professionals in relation to anthrax cases will not be used against those victims in any criminal prosecutions.

Yours sincerely

**Harry Burns**