CARD 12
Serious communicable diseases

1. Legal restrictions on disclosure
Serious communicable diseases such as HIV remain stigmatised health conditions and many patients regard information about them as particularly sensitive and private. In addition to the common law duty of confidence and the Data Protection Act, there is specific legislation covering the disclosure of information about serious communicable diseases. The legislation, which is currently being reviewed by the Department of Health, is the NHS (Venereal Diseases) Regulations 1974 and the NHS Trusts and PCTs (Sexually Transmitted Diseases) Directions 2000. These provide that any information capable of identifying an individual who is examined or treated for any sexually transmitted disease, including HIV, shall not be disclosed other than to a medical practitioner in connection with the treatment of the individual or for the prevention of the spread of the disease.

2. Can information be disclosed to close sexual contacts?
When a patient has a medical condition that puts others at risk health professionals must discuss with the patient how to minimise that risk. In the case of serious communicable diseases such as HIV, health professionals should discuss with the patient the need to inform sexual partners, and the options for safe sex. Every effort should be made to persuade patients to agree to the information being shared
voluntarily. Patients should also be advised that if they refuse to share the information, the health professional may be obliged to do so. Exceptionally, if patients refuse to modify their behaviour or inform others, doctors are advised by the GMC that they may breach confidentiality and inform a close sexual contact of the patient. Wherever possible, patients should always be told before this step is taken. The GMC advises that doctors should not disclose information to others without patient consent, for example, relatives who have not been and are not at risk of infection. (See also Card 10 on Public Interest and Card 1: ‘GMC’ and ‘MET’.)

3. Can information be disclosed where a health care worker has suffered a needlestick injury or other occupational exposure to blood or bodily fluids?

The use of universal precautions should be enough to protect health care workers from infection, thereby making disclosure unnecessary to prevent ‘serious harm’. However, there will be occasions where, for example, despite all reasonable precautions a health professional suffers a needlestick injury and the patient is known by the treating doctor to have a blood-borne virus, such as HIV. If the patient is competent, consent should be sought to disclose information. Where the patient lacks capacity to consent, disclosure may only take place if it is in the best interests of the patient. In the BMA’s view it is difficult to envisage how disclosure could be in the patient’s best interests and legal advice should be sought on a case-by-case basis. (See also Card 6 on Assessment of Capacity and Determining ‘Best Interests’ and Card 1: ‘Capacity’, ‘Scotland Incapacity’, ‘MCA’, ‘GMC’ and ‘MET’.)