

Protection of Family Links for patients admitted in medical facilities and persons placed in quarantine facilities

INTRODUCTION

As the COVID-19 outbreak expands, the International Committee of the Red Cross (ICRC) recognizes the enormous challenges authorities are facing and the pressure under which public services are operating as they seek to respond to the pandemic. Due to COVID-19, preventive measures to reduce face to face social interactions have been taken and are implemented today in most countries. Many people find themselves in hospitals or placed in quarantine, some in homes for elderly or in isolation, without the possibility to receive visits from their loved ones. Efforts to help them stay in contact with their family members, if they wish so, are of key importance for their ability to cope with this difficult situation and to alleviate the anxiety of their relatives.

Including family contact into patient care is standard procedure in most medical facilities. However, in times of crisis such as the COVID-19 pandemic, public services, in particular health services providers, may find themselves under pressure to respond to the COVID-19 pandemic and might largely depend on the capacity and available resources of the healthcare professionals and local authorities to keeping contact between patients and their family/next of kin. The standard practice, which is not necessarily a systematically applied practice, is that medical facility's administration and health staff have the patient's contact person to notify any deterioration of the health status, transfer to another facility or death. The contact person's name (next of kin or a non-family member) is usually in the patient medical file and is collected at the admission or as soon as the person can/wishes to give the information. When a patient has no contact/does not wish to share the contact details of a relative, friend or another person, the medical personnel notifies the competent authorities as required by the law. If the patient dies, the personnel follows the procedure in force in the country (usually competent administrative authorities are notified and the body is transferred to the authorities/police forces with a death certificate). Medical personnel is bound by a principle to respect the right of the family to know, in case they ask, but not necessarily to proactively search for the family of a patient so that his/her next of kin can be informed. The patient is at the center of the medical staff action, not the family. Caring for patients and their best interest can however imply keeping in touch with the family, as long as the patient consents / does not object to it and the situation allows it.

Families of persons at risk¹ and/or placed in quarantine facilities/shelters/care homes, may not be able to visit their loved ones. To ensure that the families are nonetheless able to maintain regular contact and/or are informed of the state of health and place where their loved one is, and to prevent undocumented persons, foreigners, and persons who are alone or isolated to become missing, the ICRC proposes **recommendations to 1) authorities in charge of medical facilities and 2)a&b) other stakeholders such as National Societies, Social Protection Services, Security/Armed Forces or other actors supporting the authorities in quarantine centers/shelters.**

RECOMMENDATIONS ON PROTECTION OF FAMILY LINKS:

A) TO AUTHORITIES/STAKEHOLDERS IN CHARGE OF MEDICAL FACILITIES

To ensure the protection of family links and to protect people from going missing due to COVID-19 pandemic, it is of utmost importance that all patients are provided with the means to communicate with their family members to inform them about their state of health and location once admitted in medical facilities. The more meaningful these moments can be, the

¹ By person at risk or high risk, we intend persons over the age of 65 years and those with underlying medical conditions, as well as persons who have been exposed and at risk of spreading the disease.

more they will alleviate the pain and contribute to the healing process, relieve the anxiety of death or facilitate mourning for the family.

- Ensuring that accurate and standardized **records** at every stage along the continuum of health-care are kept, by collecting the necessary information from admitted patients to prevent disappearance and ensure they do not go unaccounted for.²
- Ensuring that family members/person of contact are informed of the **transfer** to a medical facility, the date of transfer and present location provided there is consent or no objection from the person transferred. To note that this is also valid for detainees and should be the responsibility of the detaining authorities when a detainee is transferred to a medical facility within or from a place of detention.
- When the health personnel is overburdened with the care per se, appoint **social workers** or **focal person(s)** to support healthcare providers in these tasks of ensuring communication between the patients and their person of contact.
- Facilitate **remote/virtual contact** between the patients and their family members through phone, video or other electronic media handled by the medical personnel/person appointed. If the patients are not able to communicate with their families, ensure that the families are informed about significant changes in the medical condition of the patient, if the patient consents /does not object to this. In case virtual contact is not possible, the Family Links Network of the RC/RC Movement can be approached via the social worker or focal person appointed within the medical structure.
- When a patient has lost contact with his/her next of kin/person of contact and wishes to find them, either within the country or abroad, ensure to the extent possible that the person responsible for the family contact within the medical structure liaise with the **National Society family tracing service**.
- Families of terminally ill or deceased **patients** should be offered the necessary support, including psychosocial support and/or bereavement counselling, whenever possible and feasible. Family visits should be considered, in particular to accompany a dying person, while ensuring the safety of staff, patients and families.
- In case of **death**, keep adequate medical register and ensure proper and dignified management of the deceased (ref. to above footnote 2). When applicable, ensure the family/person of contact is informed about the death of the patient.

² When collecting information to prevent disappearances, patients should be informed of all reasons for collecting and/or sharing their personal information and the personal data collected should not be used for other incompatible or nonhumanitarian purposes (such as law enforcement, immigration or border control). Personal data protection standards, including proportionality of data processing, should apply.

B) TO AUTHORITIES/STAKEHOLDERS IN CHARGE OF QUARANTINE FACILITIES, ISOLATION PLACES WITHIN QUARANTINE FACILITIES, MOBILE TEAMS FOR HOME VISIT TO PERSONS TESTED POSITIVELY AND REQUIRING MEDICAL FOLLOW-UP OR ELDERLY HOMES

Measures taken to avoid or limit the further spread of the virus should be accompanied by mitigation measures to enable families to keep in touch, provided they so wish, even when restrictions are required in terms of face-to-face or physical contact.

Conversely, stakeholders offering family links services are encouraged to assess or revise and adapt the way they deliver their services. This might imply adjusting the response to avoid face-to-face contact when possible and feasible and take sanitary and other precautionary measures.

To ensure the protection of family links, we call on persons in charge of quarantine facilities, isolation places within those structures, elderly homes and mobile teams for home visits to persons at risk to:

- In case family members are in the same quarantine facility/shelter, ensure they are together as long as this is not in contradiction with health measures. When someone is admitted for treatment or observation, enquire whether there are children left behind, where they are and whether care arrangements are in place. Facilitate safe and regular communication between children and parents/caregivers who are temporarily separated.
- Ensure that individuals admitted to facilities do not go unaccounted for within the quarantine/isolation system by recording information such as affected individual's transfers, deaths, and the necessary information to prevent disappearance and to maintain familial contact.³ If a protocol is in place, ensure it includes a section on efforts and resources to be made available to put the (incoming) person in contact with his/her next of kin (i.e. facilitating communication if the person wishes so). Basic data such as the following should be recorded:
 - o Person: full name(s) and surname(s), father's/mother's/caregiver's
 - o name(s) as required depending on the country/place, date and place of birth, address, if available: phone number.
 - o Next of kin: full name, contact details (phones, e-mail, address) and family relation with the patient; primary and secondary contact in case of emergency/death.
- Collect necessary information about movements of the affected individual within the healthcare/quarantine system:
 - o **Transfer out:** date of the transfer; where the affected individual was transferred to; who transferred the person. When applicable, was the next of kin informed about the transfer and if yes when, how and by whom.
 - o **Death:** date of the death; where was the deceased person transferred to and by whom. Was the next of kin informed about the death and if yes, who, by whom, how and when. Was the next of kin informed about the current location of the body and if yes, who, when, how and by whom.

³ When collecting information to prevent disappearances, patients should be informed of all reasons for collecting and/or sharing their personal information and the personal data collected should not be used for other incompatible or nonhumanitarian purposes (such as law enforcement, immigration or border control). Personal data protection standards, including proportionality of data processing, should apply.

- Ensure that the personnel in charge of the facility has the means to inform the family and keep them informed (i.e.: internet connection, professional phone/laptop for skype/video conference, personal equipment, radio). If necessary, identify a focal person and work out protocols for safe and appropriate functioning of the family contact service (data protection compliant).⁴
- Ensure remote/virtual contact between the affected individual and their family members. For foreigners/migrants (including refugees and asylum seekers) notification to their embassy should be offered, if they have provided free and informed consent or have not objected.
- Should the facility not have the means or capacity to ensure communication between the affected individual and their family members or in the situation where they have lost contact with their family members, the RC/RC Movement can offer support in terms of facilitating communication (e.g. telephone, videocall) between affected people and their family members, tracing family members within the country or abroad and/or more broadly, whenever possible, in providing equipment (tablets, PPE, disinfecting agents) depending on the restrictions of the health facility (e.g. Intensive Care Units or hospital wards may not allow anyone not medically trained to be present).
- For deceased person, and to avoid that the person becomes unaccounted for:
 - o Ensure accurate records about the persons
 - o Ensure the family of the deceased are notified of the death
 - o Ensure the families of the deceased is informed of the burial site
 - o For unidentified bodies, ensure that the bodies are properly managed to enable future identification (such as DNA sample, personal objects, no cremation, etc.)

C) ON ADJUSTING RESPONSE TO PARTICULAR SITUATION AND NEEDS OF VULNERABLE PERSONS IN QUARANTINE FACILITIES: CHILDREN, THE ELDERLY, SICK, WOUNDED, MIGRANTS, IDPS, PERSONS WITH DISABILITIES, PERSONS HIGHLY DEPENDENT FOR THEIR DAILY ACTIVITIES, DETAINEES

As in any other emergency or crisis, children, the elderly and other persons in vulnerable situations (sick, wounded, migrants, IDPs, persons with disabilities, persons highly dependent for their daily activities, etc.) have higher protection needs. Protecting family links often contributes to the resilience and enhanced protection of vulnerable individuals.

It is recommended to verify if there exists a specific **mechanism /prioritization for RFL for vulnerable persons**. It is recommended to pay particular attention to **children and other vulnerable persons under the care of persons infected by COVID-19**, those who have become orphaned as a result of COVID-19, and those particularly at risk of infection (the elderly, migrants, including refugees, IDPs, detainees, etc.), those who might face language barriers. The loss of contact might also happen when a parent/caregiver is put in quarantine and is separated from his/her children; community level quarantine measures are imposed while family members are apart; or in case of loss of parents/caregivers due to disease.

⁴ "Tip Sheet on the Responsible Use of Online Conferencing Tools", ICRC, IFRC, UN OCHA (April 2020): <https://www.icrc.org/en/publication/tip-sheet-responsible-use-online-conferencing-tools>

Specific protection needs of **unaccompanied and separated children** as well as **other vulnerable persons** should be considered, and all possible measures taken to **ensure family links are maintained** between children/vulnerable persons and family members who are physically separated.

When a **caregiver is admitted to a hospital or quarantine facility**, information should be collected whenever necessary about appropriate caregiving arrangements for children and other vulnerable persons while the caregiver is under treatment (ideally as close as possible to his/her place of residence), as well as about remaining family members to provide permanent care in the event that the caregiver dies.

In case a **child or a highly dependent person is at risk of losing his/her parent(s) or caregivers to the disease, or if a child is already an orphan**, all measures should be taken to locate a relative and if not possible to identify alternative care options (ideally community or family-based), ensuring children and vulnerable persons who are separated from their remaining relatives have regular opportunities to communicate with them, and that the principle of “do no harm” and children’s best interests is taken into account. The RC/RC Movement can be of support in such endeavours.

Detainees are also a category of vulnerable persons. Family contact provides vital psychological and at times economical support to detainees. COVID-19-related restrictions have made this contact, and especially family visits, more difficult, adding stress for families and detainees during this difficult time.

The fundamental right of detainees to contact with the outside world should be ensured. Any measure of quarantine and isolation must be humane, necessary, non-discriminatory and proportionate to the public health objectives being served. Restrictions should be limited to the strict amount of time necessary and their relevance re-evaluated regularly.

It is key that detaining authorities minimize disruption of family contacts and continue to provide, as far as possible, the means to uphold family contacts while taking all possible measures to prevent the spread of the virus.

In case face-to-face family visits have to be reduced or suspended in the interest of the health of detainees, their families and prison staff, the authorities should consider alternative strategies to mitigate the impact of these restrictions (e.g. by means of distant contact visits, where possible, increased access to phones, messaging Apps, video calls, email and mail correspondence, etc.) and ensure that detainees and families are regularly informed about the reasons, the modalities and the duration of the restrictions implemented.

The obligation of the detaining authorities to notify the diplomatic or consular representatives of a foreign detainee, including a migrant, remains in place, provided the concerned detainee consents to such notification.⁵

⁵ 1963 Vienna Convention on Consular Relations, Article 36.1.b. Consent is extremely important as for those fleeing persecution, notification to their embassy might create protection risks for themselves or their families in the country of origin, especially if their request for asylum is denied and that they might be returned to their country of origin.

PROTECTION OF PERSONAL DATA

In time of crisis or emergency, data protection and confidentiality principles still apply and stakeholders must ensure the protection of personal data of all data subjects (e.g. patients, persons in quarantine facilities, beneficiaries of RFL services, employees of health and humanitarian service providers). Health data, in particular, constitute sensitive personal data, the processing of which should therefore be accompanied with appropriate safeguards that are commensurate with the risks of harm to data subjects.

Stakeholders should collect and process personal data in a way that is adequate, relevant and limited to what is necessary for the specified and legitimate purpose of that processing. They should therefore refrain from collecting more health data than is necessary and collecting it in a systematic or generalized manner⁶. Any collection and processing of personal data should be done fairly (e.g. in a non-discriminatory way) and transparently, requiring that stakeholders exhaust all reasonable efforts to inform data subjects of the processing of their personal data. Moreover, stakeholders should use secure means to store and exchange personal data that ensure encryption of data in transit and at rest as well as authentication functionality and access restriction, among other security safeguards.

Applicable national and regional data protection laws may provide legal grounds to enable the processing of personal data in the context of epidemics, without the need to obtain consent. This may include the processing of personal data that is necessary for reasons of public interest in the area of public health or to protect vital interests. However, regardless of the lawful basis for processing, the above-mentioned safeguards and principles of e.g. transparency, purpose specification, data minimization, and proportionality still apply.⁷

In accordance with the data protection principle of purpose limitation and specification as well as the humanitarian principle of “do no harm”, all stakeholders should ensure that personal data collected by health care and humanitarian service providers for specific humanitarian/RFL/health-related purposes is not requested and/or used for purposes unrelated or incompatible with the intended, original purpose(s), for example for law enforcement, immigration or border control. The resolution 33IC/19/R4 on *Restoring Family Links while respecting privacy, including as it relates to personal data protection*, unanimously adopted at the 33rd International Conference of the Red Cross and Red Crescent in December 2019, reaffirms these principles with regards to RFL services provided by the components of the RC/RC Movement.⁸

KEY MESSAGES TO AUTHORITIES/STAKEHOLDERS ON THE PROTECTION OF FAMILY LINKS:

States and other relevant stakeholders are called upon to take measures to **preserve family unity**, unless physical separation is required from a public health perspective (e.g. quarantine in force, isolation, lock down, transfer to medical structures). In case physical separation is required, efforts must be made to ensure that separation is managed in a humane manner and is limited to the strictly necessary amount of time; keeping family members or person of contact informed in a timely manner, if the concerned person consents or does not object; provide patients in medical facilities and persons in quarantine who cannot receive family visits, safe means to communicate and maintain family contact during the entire time of the separation (e.g. regular phone or video calls). When someone is suspected or confirmed infected with COVID-19, separation represents an additional extreme stress factor for the individual affected and the family. The ability to stay regularly in touch with loved ones is particularly important in such situations and can contribute to the resilience of the affected persons and alleviates the suffering of their relatives.

⁶ Where possible, authorities and health service providers should also anonymize personal health data to ensure adequate de-identification of the data within health data management activities.

⁷ For more information, see Handbook on Data Protection in Humanitarian Action, <https://www.icrc.org/en/publication/handbook-data-protection-humanitarian-action>; COVID-19 guidance by the Inter-Agency Standing Committee Sub-Group on Data Responsibility, <https://data.humdata.org/faq-data-responsibility-covid-19>

⁸ See https://rcrcconference.org/app/uploads/2019/12/33IC-R4-RFL-_CLEAN_ADOPTED_en.pdf.

States and other relevant stakeholders are called upon to take all feasible measures to **prevent people from going missing** due to COVID-19 pandemic, including during medical evacuations and the application of quarantine and other measure in response to COVID-19. These include keeping accurate records at every stage along the continuum of health care collecting the necessary information from admitted patients to prevent disappearance and ensure they do not go unaccounted for⁹; providing, without delay, persons in health or quarantine facilities with a secure means to communicate and maintain family contact, while respecting the wishes of the affected person. In the present situation where most families are often not able to participate to funerals and grieve their deceased loved ones according to usual rituals, minimum best practices in terms of the management of the dead¹⁰ should be ensured, such as centralizing the records on the deceased at State level, their content and form standardized to ease the search of information at a later stage, while keeping families informed about the death and the place of burial of their next of kin.

Authorities should facilitate direct contact between **foreign nationals** – including migrants irrespective of legal status – who are in quarantine or hospitalized, and their families provided that the person concerned wishes so. If by national law or by virtue of bilateral agreements, there is a requirement to notify the country of origin of a foreign national who has been in quarantine or hospitalized due to COVID-19, the authorities should always ensure that they have the consent of the concerned individual to notify their consular representation¹¹.

States and other relevant stakeholders are called upon to **recognize the humanitarian mandate of the components of the International Red Cross and Red Crescent (RC/RC) Movement** and therefore **provide access to affected populations** to enable them to carry out their humanitarian work, taking into consideration all preventive health measures. The Family Links Network, comprising RC/RC National Societies and the ICRC, will continue offering their services to authorities to ensure family links are maintained and restored. Making use of its world-wide presence, the RC/RC Movement is engaged in the humanitarian response to COVID-19 pandemic such as providing medical assistance while ensuring compliance with the principle of duty of care by paying careful attention to the health and safety of staff and individuals affected by COVID-19. National authorities are encouraged to approach their respective National RC/RC Societies to see how NS and States might mutually benefit from working together, better understand each others' needs and capacity/distinct or complementary offers.

⁹ When collecting information to prevent disappearances, patients should be informed of all reasons for collecting and/or sharing their personal information and the personal data collected should not be used for other incompatible or nonhumanitarian purposes (such as law enforcement, immigration or border control). Personal data protection standards, including proportionality of data processing, should apply.

¹⁰ Refer to the *General Guidance for the Management of the Dead Related to COVID-19* drafted by the ICRC (<https://doi.org/10.1016/j.fsisyn.2020.03.007>). This guidance document is not intended for RFL practitioners but for forensic authorities.

¹¹ 1963 Vienna Convention on Consular Relations, Article 36.1.b. Consent is extremely important as for those fleeing persecution, notification to their embassy might create protection risks for themselves or their families in the country of origin, especially if their request for asylum is denied and that they might be returned to their country of origin.