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ABC v St Georges Healthcare NHS Trust

Sharing genetic information in families

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When should genetic information be disclosed to a patient's unsuspecting relative?





ABC v St Georges Healthcare NHS Trust
(2015) – conflict with duty
to maintain confidence

Smith v University of Leicester
NHS Trust (2016) – NO conflict
with duty to maintain confidence





ABC v St Georges Healthcare NHS Trust – the facts

- Man shot his wife convicted of manslaughter 2007
- Found to be suffering from Huntington's disease 2009
- Pregnant daughter not informed of diagnosis 2010
- Daughter diagnosed with Huntington's disease 2013





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**The claimant alleged that
the failure to tell her
about her father's
condition was actionable
negligence**



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Conflicting professional duties



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**No case which clarifies if
and when confidence can
be breached**



ABC v St Georges Healthcare NHS Trust – the crux

Were the doctors negligent
when they failed to inform the
pregnant daughter about her father's
Huntington's status?





ABC v St Georges Healthcare NHS Trust – the High Court

The public interest
in disclosure did not
outweigh the public
interest in preserving confidence





ABC v St Georges Healthcare NHS Trust – the High Court

- 1) Impact on the doctor–patient relationship
- 2) No way of knowing whether people want to be informed
- 3) Burdensome responsibilities on doctors

Critique – V Chico Non-disclosure of genetic risks:
the case for developing legal wrongs

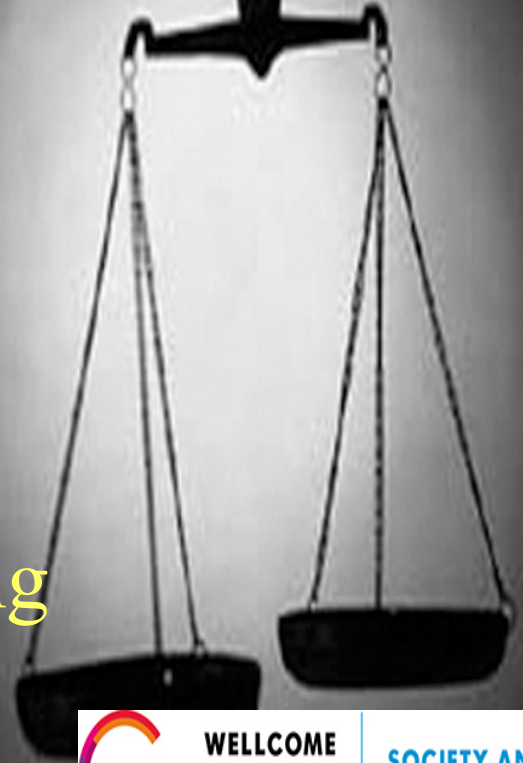
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ABC v St Georges Healthcare NHS Trust – the Court of Appeal

- Strike out application quashed
- Arguable duty of care
- Professional guidance
- Where the professional balancing exercise indicates disclosure





ABC v St Georges Healthcare NHS Trust – Court of Appeal

- Questioned incentivising obligation of confidence
- But only where professional opinion favours disclosure
- Retains professional control





ABC v St Georges Healthcare NHS Trust – Court of Appeal

- Limited to clinical genetics
- Where the relative should become a patient





Conclusion

- What next for *ABC v St Georges*?
- Whatever the outcome, achieving a clearer legal picture is likely to take some time
- Rethinking the value the law places on confidentiality in the context of clinical genetics

