

# Guidance on Confidentiality in Student Health and Welfare

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## **1. Introduction**

This document is intended for all those involved in student health and welfare, whether in colleges or departments, for whom confidentiality might be an issue. It is designed to promote greater consistency in the way individual cases are handled. "Health" for this document covers both physical and mental health.

Colleagues are advised to familiarise themselves with this guidance as part of induction or ongoing training in welfare matters, so that in an urgent situation senior staff are well-informed and not making decisions in isolation. The Director of Student Welfare and Support Services can advise colleagues on a no-names basis.

This guidance applies to all students studying at the University of Oxford including those on a year abroad or on overseas research trips. Students overseas may not be able to access the full range of welfare services referenced in this guidance, but the general principles still apply.

## **2. Legal context**

There are a number of legal drivers and considerations around confidentiality and consent which have been considered as part of this this guidance.

## **3. General Principles**

### **Respect for confidentiality**

3.1 In general, information relating to the health and welfare of an individual will amount to sensitive personal data, and must be kept confidential and only disclosed with consent. This document sets out the basis for dealing with exceptions to that general rule.

3.2 Whilst sharing information might seem the most helpful response, students are adults and the confidentiality of their data must be maintained, and information not shared without consent.

3.3 Those advising students should consider at the outset of a discussion whether it would be helpful to make clear that the content is to be confidential and the extent of the confidentiality which can be afforded to any disclosures.

3.4 When discussing confidentiality with students, the following should be made clear:

- Confidentiality will be respected, wherever possible;
- Consent will be sought, wherever possible, to any onwards disclosure of information; and
- There are limited circumstances in which information might be shared with a third party, e.g. taking account of the vital interests of others, or where an individual lacks capacity to consent.

### **Seeking consent**

3.5 Those involved in advising students should, where possible, seek the consent of the individual for the onward disclosure of relevant information to those with a clear need to know, and for this consent to be obtained in writing. Where consent cannot be provided in writing it is good practice to record any consent to onward disclosure e.g. in a note or by way of letter to the student.

3.6 Where such consent is not forthcoming, the person entrusted with the information should make it clear that in exceptional circumstances, it may be necessary to disclose the information to others. An example of an exceptional circumstance is the risk of serious harm to the student or others. Guidance can be sought from the Director of Student Welfare and Support Services.

## **Considering risks to others**

The University and its colleges must bear in mind that in certain circumstances they may owe obligations to individuals that cannot be discharged unless the institution takes action on information provided in confidence. For example, disclosure of information may be necessary in order to protect the vital interests of others. Such circumstances involve the weighing up of different interests.

### **Seeking advice**

3.7 Those to whom information has been given in confidence, or who have acquired information which they regard as confidential, may not always be sure whether they should disclose this information or not. In these circumstances it may be sensible to seek advice from an appropriate person e.g. a senior college or department officer, the college doctor or the University's Student Counselling Service. This consultation should be done without divulging the name of the student concerned.

3.8 Student Peer Supporters operating under the University's Peer Support Programme have a separate policy on confidentiality which they must follow. Please refer to Peer Support Code of Confidentiality.

### **Promises of confidentiality**

3.9 It is generally not appropriate to give absolute assurances of confidentiality to those who may wish to talk about health-related matters. See paragraph 3.3 of this guidance for an outline of the appropriate approach to be taken when discussing how health related information will be dealt with.

### **Discussion with college doctors, college nurses and the Student Counselling Service**

3.10 It is often helpful for tutors or others to talk to college doctors, college nurses or members of the University's Student Counselling Service about undergraduate or graduate students' difficulties; the individual's consent to do so should be sought.

- If consent is not forthcoming, it may still be helpful to seek general advice from the doctor, nurse or counsellor without identifying the student concerned.
- In exceptional circumstances college doctors, college nurses and counsellors may wish to speak to the senior members of a college about a student. If the student is unwilling, confidentiality will be respected unless there are reasons not to within the relevant professional guidelines.
- The Student Counselling Service's Liaison Scheme, whereby colleges may elect to have a named counsellor with whom they can liaise, is specifically designed so that college members can seek the advice of someone who is familiar with the college context.
- Mature or part-time students may not be registered with the college GP or have easy access to the college nurse or counselling service. Some colleges have found it helpful to record the name of the student's GP surgery where this is not the college GP. Case discussions with the counselling service can still take place on a confidential no-names basis.

### **Contact with families**

3.11 It is inappropriate to speak to a student's family against the student's wishes. In such circumstances, contact can only be justified where the student is physically incapacitated (e.g. unconscious due to serious accident) or the student has been medically assessed as lacking capacity to make the decision. Mental capacity is to be assumed intact, unless determined otherwise by clinical staff within the NHS. As a general rule, where a student presents a risk to self but has capacity (e.g. self-harm), any decision that family members should not be contacted should be respected. Some students may give non-family members as their next of kin depending on their circumstances.

- 3.12 Any decision to contact the family should be made at the highest level (e.g. head of college), taking specialist legal advice as necessary, and the student should normally be informed.

### **Students on professional courses**

- 3.13 Special considerations apply to students on courses leading to qualifications for professions governed by codes of conduct and health intended to protect the public for example, medicine, social work and teaching. Any concerns about the health or behaviour of a student on one of these courses may be discussed with the department concerned, in the first instance without divulging the name of the student. Advice may also be sought from the college doctor or the Head of the Student Counselling Service.
- 3.14 The General Medical Council (GMC) expects medical students to be open and honest about any conditions which might affect their ability to study or practice and to engage readily in any assessment or monitoring. Non-disclosure is likely to be viewed adversely when problems do become apparent. The Associate Director of Pre-clinical Studies [Health & Welfare] is available to support medical students with welfare issues and provide advice. Concerns about fitness to practice should be addressed to the Assistant Registrar in MSD.

## **4. Professional guidelines**

### **Doctors and their professional colleagues**

- 4.1 There are explicit and strict guidelines on medical confidentiality which are codified by the General Medical Council. Doctors have the discretion to share information with other members of the healthcare team, for example, college nurses. There are limited exceptions to confidentiality – statutory and in the public interest. The General Medical Council states:

*"Disclosures may be necessary in the public interest where a failure to disclose information may expose the patient, or others, to risk of death or serious harm. In such circumstances you should disclose information promptly to an appropriate person or authority."*

- 4.2 NHS staff are bound by the Department of Health guidance, Confidentiality: NHS Code of Practice, and college nurses by the Nurses and Midwife Council code which states:

*"[Nurses] must... share necessary information with other healthcare professionals and agencies only when the interests of patient safety and public protection override the need for confidentiality."*

### **Student Welfare and Support Services**

- 4.3 The Student Counselling Service is an organisational member of the British Association for Counselling and Psychotherapy and abides by its Ethical Framework for Good Practice. Confidentiality remains with the staff of Student Welfare and Support Services and information will not normally be conveyed to others without permission.
- 4.4 The Disability Advisory Service will share confidential information related to declared disability for the purposes of supporting that student with the written consent of the student.

### **Chaplains**

- 4.5 College and denominational chaplains, as ministers of religion, operate with strict ethical codes as regards information disclosed to them in confidence, whether in formal situations of sacramental

confession or in less formal pastoral work. Chaplains are there for the whole of the community. In many colleges these chaplains also have a significant welfare role and therefore like counsellors and doctors, they may very occasionally be required to divulge information given in confidence. It is necessary to distinguish between the Chaplain functioning with spiritual concerns and when they are functioning as a member of the College welfare team. In the latter case they will abide by their college's rules on confidentiality. Chaplains may also themselves have a confidential supervisor or spiritual director with whom they discuss their pastoral work. Because chaplains are members of the same communities in which they exercise pastoral care, students often encounter them in a variety of social settings. A chaplain should make clear the understanding of confidentiality within which they work.

## Disclosures to the police

4.6 The police may occasionally contact the University or College in order to request that information be disclosed to them as part of an investigation. In such circumstances, the following considerations should be taken into account:

- Is it possible to obtain the consent of the relevant individual to the disclosure to the police?
- Whether disclosure is requested under the Data Protection Act for the prevention or detection of crime or apprehension or prosecution of offenders and seeking an individual's consent will prejudice the enquiry. Please note however that this provision does not **compel** disclosure and decisions about whether or not to disclose information should be considered carefully. Factors such as the seriousness of the offence will be relevant. If it is decided that a degree of disclosure is appropriate this should be limited to the minimum required. Any such requests made to the University should be referred to the Information Compliance Team ([data.protection@admin.ox.ac.uk](mailto:data.protection@admin.ox.ac.uk)) for processing.
- Whether the College will require the police to obtain a court order for disclosure

If university staff are unsure what to do in these circumstances, they should contact the University's Legal Services Office or Information Compliance team for advice.

## 5. University and College policies

5.1 For legal and more general reasons it is important that the University and colleges set out statements about privacy and confidentiality. Whilst it is entirely appropriate that there is variation in the details of application, there are strong legal and practical reasons for the documents to be based on the same explicit principles. College statements should be made available to both students and staff. It may also be helpful for colleges to inform parents or guardians of the principles that will be followed with regard to confidentiality.

## 6. Specific problems

### Major behavioural and emotional problems

6.1 In the event that a student's behaviour is such that they are considered to pose a risk to staff or students within the collegiate University, the senior member responsible for college welfare should consider whether the vital interests of others are affected. Where there is time to consider action, it is important to seek the confidential advice and help of the college doctor (when matters of safety are of concern).

6.2 In the event that a student's behaviour is such that they are considered to pose a risk to themselves they should be encouraged to engage with their GP in the first instance. Where the student is a significant risk of harm to themselves and failing to take steps to maintain their welfare (including not engaging with

health professionals) it may be necessary to contact the emergency services. Where time permits it is important to seek the confidential advice and help of the college doctor.

- 6.3 If a student is causing considerable concern or disruption but is not considered to pose a risk to other members of the college or department or themselves, and they are unwilling to consult medical professionals, a senior member with pastoral experience may well be able to achieve a satisfactory solution, and case conferences can be useful tool. A senior member may wish to contact the Director of Student Welfare and Support Services or Head of Counselling to discuss possible sources of help.

### **Discipline and ill health**

- 6.4 The University and colleges have formal procedures for dealing with serious problems arising from ill health which come to light in the course of a disciplinary investigation or otherwise. University departments and/or colleges must ensure that any decision to share sensitive personal data is in accordance with the provisions of the Data Protection Act 1998. Please refer to the University [Fitness to Study procedure](#) (or College procedures) for more information.

### **Discharge from hospital**

- 6.5 Hospital staff in the UK can be expected to contact GPs about students discharged from the emergency department or inpatient wards with significant medical problems. It is the responsibility of hospital staff to ensure a 'safe' discharge and this may include communication with the college or family to which the patient will be discharged, subject to the patient giving permission to share information. Usually students will appreciate that it is in their interests to give permission to share information.
- 6.6 If the GP is a college doctor, he or she should be fully aware of the consequences for colleges, and they or a nurse are likely to ask the patient to provide permission to inform relevant officers within college. Students who are not registered with a college doctor may be at risk of sub-optimal communication between their GP and the college welfare team, and/or at risk of incorrect assumptions of what support may be available; college nurses are an important way to ameliorate such problems. It is helpful if those responsible for student welfare have discussed issues and procedures with their college doctor and nurse.

### **Risk of self-harm**

- 6.7 If it appears that a student is at risk of self-harm concerns should be reported to a senior member of the college with pastoral responsibilities. It is often sensible to discuss these concerns directly with the student. The college doctor or Student Counselling Service can be consulted. Even when the doctor or counsellor is unable to comment about a particular case for reasons of confidentiality, it can be useful to discuss general issues. Since self-harming activity can vary in its level of immediate danger, discussion with a professional is important to assess what action is needed. Where there are clear indications that the student is in imminent and serious danger a doctor should be consulted as quickly as possible and if necessary the emergency services contacted.
- 6.8 If a student attends the John Radcliffe Hospital following self-harm, or for any other mental health issue, they will usually be offered an assessment by the Emergency Department Psychiatric Service, or the Psychological Medicine Service if admitted to a medical or surgical ward. This assessment will be shared with the student's GP. Students will be asked whether they consent to information being shared with any other specific individuals in the College (such as Dean, Chaplain, Nurse etc.) and with the University Counselling Service if appropriate.

## **Serious crime**

- 6.9 Victims of serious crime can seek advice from the University Safety Office, in person or remotely if out of residence, or approach the Police directly. Survivors of rape or sexual violence can speak to trained first responders or find further information [online](#), along with advice on how to support students in such circumstances and on the details of confidential referral routes.
- 6.10 All information concerning sexual assault and sexual violence should be treated in confidence, and information should only be shared with consent of the individual and on a need-to-know basis. Sharing of information with consent will be limited to staff in order for support to be put in place, and the purpose of sharing should be explained to the individual. This support may include making arrangements to limit contact between the parties concerned. In such cases advice can be sought from the Director of Student Welfare and Support Service. Staff may be obliged to provide evidence to the court in proceedings arising from an allegation of sexual assault or sexual violence.
- 6.11 There may be circumstances in which confidentiality cannot be maintained, e.g. where there is a concern of serious harm to the individual (e.g. failure to seek suitable medical support) or others. In such cases university's duty of care must be considered. Decisions on sharing information without consent must be made at a senior level (e.g. Head of House), seeking specialist legal advice as appropriate.

## **7. Dealing with the media**

It is important that all members of staff of the University should be careful about speaking to the media and this is particularly so when there is a risk that confidential or sensitive personal data might be inadvertently disclosed. Colleges and the University have policies about who should respond to enquiries and the University Press Office is always able to give advice. In cases of student death the Student Tragedy guidance should be followed.

## **8. Dealing with requests from family members**

- 8.1. It is inappropriate to speak to a student's family against the student's wishes. In such circumstances, contact can only be justified where the student is physically incapacitated (e.g. unconscious due to serious accident) or the student has been medically assessed as lacking capacity to make the decision. Mental capacity is to be assumed intact, unless determined otherwise by clinical staff within the NHS. As a general rule, where a student presents a risk to self but has capacity (e.g. self-harm), any decision that family members should not be contacted should be respected. Some students may give non-family members as their next of kin depending on their circumstances.
- 8.2. There may be times when family members contact the university, college or department on behalf of the student. These requests may come from parents, partners or other family members. This arises most often with parents of full-time undergraduate students. Whilst providing advice and response might seem the most helpful response, students are adults and the confidentiality of their data must be maintained.
- 8.3. Some students do give written consent for information to be shared with others but this is very rare. Some parents or partners of students with disabilities are actively involved in their support, where consent has already been obtained..
- 8.4. When family members make requests on behalf of students it is important that staff are polite and clear about not being able to share information.
- 8.5. Where family members raise concerns for a student's welfare it is appropriate to inform them of channels of support that are available to all students (e.g. college doctor, welfare contact in college,

counselling service). Staff should advise family members that information provided in relation to the student will not normally be acted upon, and that they should encourage the student to disclose this information themselves and seek help. In cases where a family member discloses information which indicates that an individual is at risk of serious harm, the university must act upon this information and communicate that it will not be possible to guarantee anonymity to the disclosing party.

**Under 18s**

8.6. Separate considerations apply to students under the age of 18. Further advice should be sought from Safeguarding Leads where appropriate and more information is available on the [Safeguarding webpages](#).