



Guidance on Confidentiality in Student Health and Welfare

1. Introduction

- 1.1. This document is intended for all those involved in student health and welfare in College for whom confidentiality might be an issue. It is designed to promote consistency in the way individual cases are handled. "Health" for this document covers both physical and mental health.
- 1.2. 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. Guidance can be sought from the Chaplain and Welfare Fellow or from the Senior Tutor on a no-names basis.
- 1.3. This guidance applies to all students at Univ including those on a year abroad or on overseas research trips. Students overseas or out-of-residence 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

- 2.1. 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 whether 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. Only in such circumstances will members of the Welfare Team share confidential information with other parties, although they may use their own judgment on what to share with each other.

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 or email 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 Chaplain and Welfare Fellow or the Senior Tutor.

Considering risks to others

- 3.7. In certain circumstances, the College 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

- 3.8. 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. the Chaplain and Welfare Fellow, the Senior Tutor, the college doctor or the University's Student Counselling Service. This consultation should be done without divulging the name of the student concerned.
- 3.9. Student Peer Supporters operating under the University's Peer Support Programme have a separate policy on confidentiality which they must follow. Please refer to the Peer Support Code of Confidentiality.

Promises of confidentiality

- 3.10 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

- 3.11 It may be helpful for members of the College Welfare Team or the Senior Tutor to talk to a college doctor, the college nurse or members of the University's Student Counselling Service about an undergraduate or graduate student's 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 a doctor, nurse or counsellor without identifying the student concerned.
 - In exceptional circumstances college doctors, college nurses and counsellors may wish to speak to a college officer or tutor 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.

Contact with families

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

4. Professional guidelines

Students on professional courses

- 4.1 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.

- 4.2 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.

Doctors and their professional colleagues

- 4.3 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."

- 4.4 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

- 4.5 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.
- 4.6 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

- 4.7 The Chaplain and Welfare Fellow, as a minister of religion, operates within a strict ethical code as regards information disclosed to him in confidence, whether in formal

situations of sacramental confession or in less formal pastoral work. The Chaplain and Welfare Fellow is there for the whole of the community and has a significant welfare role. Therefore, like counsellors and doctors, he or she may very occasionally be required to divulge information given in confidence. It is necessary to distinguish between the Chaplain and Welfare Fellow functioning with spiritual concerns and when he or she is functioning as a member of the College welfare team. In the latter case, the Chaplain and Welfare Fellow will abide by the College's rules on confidentiality.

- 4.8 The Chaplain and Welfare Fellow, like other college officers, is a member of the same community in which he or she exercises pastoral care, so students often encounter him or her in a variety of social settings. Confusion can result as to the exact status of a conversation and the information imparted in these circumstances. The Chaplain and Welfare Fellow, like other college officers and staff, should make clear the understanding of confidentiality within which he or she works. The Chaplain and Welfare Fellow may also have a confidential supervisor or spiritual director with whom he or she may discuss his or her pastoral work.

Others subject to specific confidentiality requirements

- 4.9 All members of the College's welfare team, and other officers and staff who may become involved in any matter relating to health, welfare, disability support or financial hardship are also subject to the College's policy on confidentiality in student health and welfare. They recognize the need to maintain privacy and, that confidentiality remains within the Welfare Team, and will not normally be conveyed to others without permission. However they recognize also that, very occasionally, they may need to divulge information given in confidence if the person concerned is seen to be a danger to him/herself or to others.
- 4.10 Students are welcome to speak to their own tutors or to the Senior Tutor about any issue that may be concerning them, especially if they think that it might affect their academic work. They are also welcome to approach the Chaplain & Welfare Fellow, the College Nurse, or any other member of the College's welfare team. Members of the welfare team will treat their concerns in confidence, except in the exceptional circumstances described above. The Welfare Team operates independently of the Academic Office, and information is normally only passed from the former to the latter with the consent of the student involved.

Disclosures to the police

- 4.11 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 will be taken into account:
- Whether it is 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 College should be referred to the College's Data Protection Officer.

- Whether the College will require the police to obtain a court order for disclosure.

5. Specific problems

Major behavioural and emotional problems

- 5.1 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 Chaplain and Welfare Fellow or Senior Tutor 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).
- 5.2 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.
- 5.3 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 college officer with pastoral experience may well be able to achieve a satisfactory solution, and case conferences can be a useful tool. A college officer 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

- 5.4 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 relevant legislation. Please refer to the University Fitness to Study procedure for more information.

Discharge from hospital

- 5.5 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.

- 5.6 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; in such circumstances the college nurse may be able to help if made aware of a student's circumstances. It is helpful if those responsible for student welfare have discussed issues and procedures with their college doctor and nurse.

Risk of self-harm

- 5.7 If it appears that a student is at risk of self-harm concerns should be reported to a college officer with pastoral responsibilities (e.g. the Chaplain and Welfare Fellow) or to the college nurse. 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.
- 5.8 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 Chaplain and Welfare Fellow, Senior Tutor, Nurse etc.) and with the University Counselling Service if appropriate.

Serious crime

- 5.9 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. Advice on how to support students in such circumstances and on the details of confidential referral routes are also available online. For further information about the University's Sexual Harassment and Violence Support Service see: <https://www.ox.ac.uk/students/welfare/supportservice>
- 5.10 All information concerning sexual assault and sexual violence will be treated in confidence, and information will 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 will 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.

- 5.11 There may be circumstances in which confidentiality cannot be maintained, e.g. where there is a concern of serious harm to the individual or others. In such cases, the College's duty of care must be considered. Decisions on sharing information without consent must be made at a senior level.

6. Dealing with requests from family members

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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 College must act upon this information and communicate that it will not be possible to guarantee anonymity to the disclosing party.

7. Under 18s

- 7.1 Separate considerations apply to students under the age of 18. Further advice should be sought from the College's Safeguarding Lead where appropriate and more information is available on the University's Safeguarding webpages.