

STATEMENT ON CONFIDENTIALITY IN A WELFARE CONTEXT, ST EDMUND'S COLLEGE

This document aims to set out the principles and guidance for confidentiality & record keeping relating to Student Health and Welfare matters.

Key Definitions

Confidentiality: College Tutors and Tutorial Office staff (Tutorial Department) cannot promise to maintain absolute confidentiality because, if students or other individuals are in danger, further help may need to be sought. Nonetheless, confidentiality will normally be maintained within the College welfare team on a strictly need-to-know basis.

1) Confidentiality within College

College Welfare Team:

In order to ensure that issues can be resolved, monitored or taken further appropriately, the Tutorial Department is referred to as the College welfare Team. Information shared by students in pastoral discussions with Tutors/ Tutorial Office staff, is normally confidential within this team on a strictly need-to-know basis. The College welfare team comprises of the Senior Tutor, Tutors, key members of Tutorial Office staff, the College Nurse, and may also include the Disability Liaison Officer, College Counsellor, Head Porter and the College Dean where appropriate. Where students are on Enhanced Student Support, individual Directors of Studies may be involved in meetings with the student.

The College Nurse, Counsellor and Dean are bound by additional professional obligations to confidentiality. While these will vary, they tend to make the application of confidentiality in their professional capacity tighter rather than more relaxed. (See 5.1-5.3 below).

Directors of Studies/Supervisors are not included in the College welfare team because the College prefers clearly to distinguish between academic and pastoral roles. Under such circumstances it will normally be inappropriate for members of the College welfare team to disclose personal and sensitive information about a student to a DoS or Supervisor without the student's consent. But it might be appropriate for the DoS or supervisor to disclose information about a student to a member of the College welfare team without consent, where concerns about the student's health and welfare warrant it. Students should be advised accordingly.

Occasions may arise where, with a student's consent or at their request, a DoS /Supervisor will be made aware of a welfare issue affecting a student in order for the College fully to support that student. There may also be times when a DoS needs to know that a pastoral issue is affecting a student because it directly affects their academic studies, without the details of that issue being divulged.

Consent to disclose

In the overwhelming majority of cases it is considered best practice to seek the student's consent to share information about them with another party before doing so, even if a breach of confidentiality without consent is justified. There is one exception outlined in section 3.1. A record of any such disclosure and consent (or lack) will be kept on the student's file.

The nature of confidentiality

Broadly speaking, student welfare information disclosed to College staff is treated as confidential to the College welfare team rather than absolutely confidential. In other words, depending upon the

circumstances, a Tutor might need to share student information with colleagues within the welfare team. However, even within the welfare team this would only be on a strictly need-to-know basis.

Disclosure to any party or parties external to the College welfare team (e.g. the wider College and Collegiate University, including Faculties and Departments) would normally only be made where either a) the student has explicitly consented, b) there is clear risk of imminent and serious harm to that student or to others in which a duty of care outweighs the duty of confidentiality or c) there is a legal obligation to do so.

Duty of care, and imminent and serious risk of harm

Notwithstanding specific legislation and the expectation of an individual who provides information in confidence, in certain circumstances a duty of care may be owed to a student or others that cannot be discharged unless the College takes action on information provided by them in confidence.

A duty of care would normally override any obligations regarding confidentiality where there is an *imminent and serious risk of harm* to the individual or to others.

Whether an imminent and serious risk of harm is present will depend upon the facts in a particular case. The risk of harm will be assessed as to actual or probable (not just 'possible'), and if that harm would have a **substantial and significant** detrimental effect on the individual's or (or another's) physical, psychological or emotional wellbeing. If unsure, staff will explore the scenario hypothetically with a senior and experienced colleague.

Disclosure within the College welfare team

College welfare staff who are not bound by specific professional obligations regarding confidentiality – in practice, usually Tutors and Tutorial Office staff – are advised to operate under the following principles:

- Assurances of absolute confidentiality can **never** be given in respect of personal discussions between students and staff;
- A student's circumstances, when concern to protect the best interests of that student or others warrants it, will be discussed by the Tutor or other welfare staff member with the Senior Tutor
- The Senior Tutor, on a strictly need-to-know basis and using their utmost discretion, may also decide to disclose information to a member of the wider College welfare team either for specific advice or for information, but will limit disclosure only to those who need to know to help the student, and will provide no more information than is absolutely necessary in the circumstances;
- Matters relating to a student's health or welfare disclosed to College welfare staff will only be shared beyond the College welfare team where either a) the student has explicitly consented; b) there is clear risk of imminent and serious harm to that student or to others; or c) there is a legal obligation to do so. Decisions to share information beyond the College welfare team when the student has not explicitly consented should normally only be taken by the Senior Tutor and according to the principles set out within this document.
- *Generic* advice about a situation may be sought from outside of the College welfare team, but the student's identity will not be revealed.
- Discussion by Tutors or Tutorial Office staff about a student within the College but beyond the College welfare team, (e.g. with the Director of Studies, where the DoS has no formal welfare role) would normally be confined to an exchange of information on academic matters relating

- to educational performance and conduct.
- Disclosure of information in the interests of reflective best practice and continuous professional development between Tutors or within the College welfare team will be anonymized as far as is reasonably practicable. Some student cases will be referred to by name at the reserved part of the Tutorial Committee in order to provide the best possible care.

Where a member of a College holds two roles and only one of these roles falls within the remit of the College welfare team, care is taken to ensure that a conflict of interest does not arise and that the individual makes particular efforts to ensure that they act in accordance with whichever 'hat' (pastoral, academic or otherwise) they are wearing in supporting any specific student. The Senior Tutor has a role in ensuring, wherever possible, that no member of staff is unduly conflicted as a result of having two concurrent but clearly distinct roles within the College.

2.2 *Disclosure to the University Counselling Service (UCS)*

It is often helpful for Tutors to be able to talk to Counsellors or Mental Health Advisors at the UCS about students who are seeking advice and support, or experiencing difficulties. The individual's consent for this to happen will normally be sought in advance of any approach to the UCS. If consent is not forthcoming, this will normally be respected, although does not preclude Tutors from seeking non-specific advice without identifying the student concerned.

However, if there is clear risk of imminent and serious harm to that student or to others, the details both of the situation and of the student's identity may need to be disclosed to the UCS.

2.3 *Disclosure to the Disability Resource Centre (DRC) and those involved in disability support*

The Equality Act 2010 requires HEIs to treat disabled students no less favourably than others, and to make reasonable adjustments to policies, practices, and procedures in order to achieve this.

In the event of a student disclosing a disability to, and only to, the College, the College will acknowledge the disclosure in writing and request that the student contacts the DRC to ensure that they enter the established process for the determination of support requirements. It is the student's prerogative not to disclose their disability to the DRC. However, if they do not do so, the Collegiate University would be limited in its ability to provide appropriate support to the student and to meet its obligations under the Equality Act 2010. If disclosure is refused, this should be in writing and will be kept on the Student's file.

When a disabled student discloses a disability to the DRC, they are asked to sign a confidentiality agreement. This asks the student to confirm whether their disclosure is full or restricted.

Full disclosure allows the DRC to use its discretion to share information about the student in order to set up necessary support, including contacting staff within the University and Colleges and requesting further information about the student's additional support requirements from the medical professional(s) or other specialists the student has been engaged with.

Restricted disclosure would limit the DRC's ability to share information about the student with only those parties to which the student gives express consent (including the student's College, Department/Faculty, Funding Body or any other party). Restricted disclosures may limit the level and type of support the DRC and Collegiate University can provide for that student, and students

are made aware of this in the DRC's confidentiality policy and agreement.

2.4 *Disclosure to the Faculty/Department*

There may be occasions when it would be helpful to share information about a student's personal circumstances with a member of their Department or Faculty in order to resolve an issue or to maximize the support available to that student.

Disclosures of this kind should always be discussed with the student and consent to share information should be obtained in advance. If disclosure is not granted, whilst it is their prerogative not to consent to wider disclosure, doing so may limit the Collegiate University's ability to arrange appropriate support and/or fully to resolve the student's issue. Notes of a discussion will be kept, and students are encouraged to write.

Conversely, Departmental and Faculty staff may wish to share welfare information disclosed to them by a student with that student's College (as the institution with responsibility for student pastoral support). Consent from the student to do so should be sought by the Department/Faculty in advance.

For minor issues where the student's consent is not forthcoming, confidentiality would normally be respected, with the Department/Faculty making clear the limitations of this approach. However, in more complex or risky circumstances where the Department/Faculty deem the College's input essential, they are advised to share information with the College and to inform the student they have done so, together with the reasons why they believed this to be necessary.

2.5 *Students on professional courses*

Special considerations apply to students on courses leading to qualifications for professions governed by codes of conduct intended to protect the public, for example, medicine or teaching. These requirements, in some circumstances, override the need for student confidentiality. If there are concerns about the health or behaviour of a student on one of these courses, they should be referred quickly to the appropriate body for consideration (for example, the relevant Progress and Fitness to Practise panel) and the student should be alerted to any referral when it is made.

Medics and Veterinary Science students are required to disclose information about any disability or mental ill-health that might affect their capacity to practice, and a failure to do so may later compromise that student's professional registration.

3. Disclosure beyond Collegiate Cambridge

3.1 *Disclosure to a law enforcement agency as part of an investigation*

As well as the police, other government agencies may request data for law enforcement purposes, such as the Department for Work and Pensions, local authorities, HM Customs and Revenue, and the Border and Immigration Agency.

If the police or another agency asks the College for information about a student to be disclosed to them in the course of an investigation, the request is escalated to the Senior Tutor (or their Deputy) to respond.

In most cases, there is no automatic obligation to provide information without first obtaining the

student's consent. There are, however, specific exemptions where a College may be entitled to disclose sensitive personal information about a student without their consent in circumstances where seeking consent would either a) risk national security or b) undermine the purposes of the disclosure (for example prejudicing the prevention or detection of serious crime, the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty).

Before releasing information to any agency, and depending upon the circumstances, the Senior Tutor may wish to seek independent legal advice.

If a disclosure is made, the Senior Tutor should be satisfied that the grounds for the request are valid and that the request is from a genuine and properly authorised agency. Refusal to comply with a request for disclosure where an exemption applies may later lead to a court order, which would legally compel the College to comply.

In emergency situations, where there is reason to believe there is a clear risk of imminent and serious harm to an individual or individuals, the police or emergency services may urgently require personal data about a student or students to be disclosed, and may not have time to put a request for it in writing. In these circumstances disclosure is acceptable without consent. Depending upon the nature of the situation, it may or may not be appropriate to tell the student afterwards that sensitive personal information has been disclosed (as detailed above, there are specific exemptions where Colleges would be entitled to disclose sensitive personal information about a student without their consent). The Senior Tutor will seek guidance on this matter from the authorised party requesting the information, who will confirm whether an exemption applies or not.

If a student discloses that they have been the victim of a crime to a College Tutor or other Officer but does not wish to report the matter to the police, the College will normally respect the student's wishes. However, in exceptional circumstances, where the facts as they emerge give rise to concerns that there is a clear risk of imminent and serious harm to the individual or members of the wider community, the Senior Tutor may decide to report the matter to the police. Unless there are exceptional reasons related to the case, the Senior Tutor will inform the student who has been the victim of the alleged crime of the intention to do so.

3.2 Contact with families etc.

All St Edmund's students are aged 21 or over and are legal independent adults. No information will be shared with family or next of kin unless express consent has been given by the student.

Tutors and Tutorial Office staff may occasionally be contacted by a student's family/guardian/next of kin to alert the College of a pastoral issue affecting a student, or out of concern. Messages will be taken to pass onto the student, but contact details will not be shared.

Contacting family members to discuss a student without explicit consent may very exceptionally be justified as being in the student's best interests, when, in the view of a medical professional, a student is a) at risk of serious self-harm or is suffering from serious ill health, and b) is lacking the capacity to make informed independent decisions. Decisions of this nature will normally be taken by the Senior Tutor acting on the advice of a medical professional. This decision will be formally recorded together with the circumstances involved.

3.3 Disclosure in a crisis

Where a student or others are in serious and/or imminent danger, the emergency services will be

contacted. Where the issue relates to mental health crisis and there is time to consider action, confidential advice can be sought from a UCS Mental Health Advisor (during office hours) or the NHS Mental Health First Response Team (call 111 and select option 2).

4. Specific circumstances

4.1 Gender reassignment

This is treated as sensitive data, and information will not be disclosed without the student's express consent.

4.2 Harassment and sexual misconduct

Please see Appendix 2 for details of how data will be used.

4.3 Communicable Disease Outbreaks

The Nurse can provide further information.

A list of notifiable communicable diseases can be found here:

<https://www.gov.uk/guidance/notifiable-diseases-and-causative-organisms-how-to-report>

4.4 Prevent Statutory Duty

The Collegiate University has a legal responsibility in relation to the Counter Terrorism and Security Act 2015 and the Prevent Statutory Duty. If a College has a significant concern that a student may be particularly susceptible to radicalisation, in rare circumstances, a decision may be taken to share this information and the details of the student in order to ensure that the individual concerned is supported appropriately. Wherever possible, the consent of the student concerned will be obtained in advance of any referral for support.

Whilst it is not expected, it is conceivable that a College may identify a student who is already engaged in illegal terrorist-related activity. Any such individuals will be referred directly to the police.

5. Relevant professional guidelines on confidentiality

It is important to note that certain health and welfare professionals will be bound by particular confidentiality obligations imposed by their regulating body or institution and whilst it may be justifiable for the Tutorial team to share information with them in their professional capacity to support the resolution of a student issue, they are likely to be unable to reciprocate in the sharing of information owing to professional limitations.

5.1 GPs and Nurses

Doctors and Nurses are regulated by the General Medical Council (GMC) and the Nursing and Midwifery Council (NMC) respectively. Protection for a patient's right to privacy and confidentiality is enshrined within case law and professional codes of conduct. Accordingly, medical professionals must usually obtain express consent from their patients before they tell other people information about that patient. However, in exceptional circumstances, where there is a clear reason to think that the individual or others are at risk of serious and imminent harm, or if there is a risk of a serious crime, they can share information without the patient's consent. In certain circumstances, they can share

personal information if this is for the public good and they also have to share information if it is required by law.

There may be times when patients cannot give consent for a Doctor or Nurse to share information because they are unconscious or very unwell and deemed to be 'lacking capacity'. In this situation, the medical professional will use their discretion in sharing information, if they deem this to be in the patient's vital interests.

5.2 *University Counselling Service*

Overall, personal information provided by students to the UCS is confidential to the service rather than the individual Counsellor or Mental Health Advisor.

UCS Counsellors

The University Counselling Service is an organisational member of the British Association for Counselling and Psychotherapy and abides by its Ethical Framework for Good Practice. Information disclosed to Counsellors will not normally be conveyed to others without the student's express permission. This includes information about counselling attendance, or information disclosed to the Counsellors.

UCS Mental Health Advisors (MHAs)

Students cannot self-refer to the UCS MHAs. At the first appointment students are asked for their consent for information to be shared on a need-to-know basis to allow information about attendance following the first referral to be shared with the referrer.

Confidentiality may be breached without consent in circumstances where there is a clear reason to think that the individual or others are at serious risk of imminent harm, or when required to do so for legal reasons. If a student were considered to be a danger to him/herself or to others then the student's consent would still usually be sought before information was conveyed to others. If this consent were not given then the Counsellor or MHA would consult with a senior member of the Counselling Service before a decision to break confidentiality was taken. The impact on the member of staff's future therapeutic relationship with the student would also be taken into consideration. Any breach of confidentiality would be minimised by restricting the information conveyed both to that which was pertinent to the immediate situation and to those persons who could provide the help required to the student.

5.3 *Chaplains*

College chaplains 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. Like counsellors and medical professionals, they may very occasionally be required to divulge information given in confidence. They may themselves have a confidential supervisor, confessor, 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. Confusion can result as to the exact status of a conversation and the information imparted in these circumstances. A chaplain should therefore make clear to their College and

students, ideally in writing on the College's website, the understanding of confidentiality within which he or she works.

5.4 *Students' Unions' Advice Service*

The Students' Unions' Advice Service (SUAS) offers a confidential, independent advice service to students. SUAS understands confidentiality to mean that no information regarding a student who has approached the Service shall be given (directly or indirectly) to any third party outside of the Service, without that student's prior, explicit and informed consent. This includes confirming whether a student has used or is using the Service.

In very rare circumstances advice officers may feel the need to break confidentiality, either where there appears to be a serious and imminent risk to the student's own or to others' safety or where the law requires disclosure. Breaching confidentiality will only be done in extreme cases, and when the advice officer involved believes it is in the student user's best interest to do so.

6. Record Keeping

Please see Data Protection Statement

7. Written Statements

Data Protection

Student Confidentiality

Statement for parents/ guardians/next of kin on information sharing

9. Breaches of Confidentiality

Students have recourse to the College's Complaints procedure should they wish to raise a concern about the way their personal, sensitive information has been handled and to allege any breaches of confidentiality in respect of a Tutor or Tutorial Office staff, or another College welfare team member.