GUIDELINES ON CONFIDENTIALITY IN STUDENT HEALTH AND WELFARE

Introduction

1. These guidelines are intended for the benefit of all members of College who are involved in student health and welfare and for whom confidentiality might be an issue, including College Officers, College Supervisors, College Staff, and of course students themselves. They are designed to ensure that all relevant parties are aware of the basic principles concerning confidentiality and to promote greater consistency, as far as possible, in the way individual cases are handled.

2. “Health” for this document covers both physical and mental health.

3. The guidelines provided in this document is based on and in line with the University’s Guidance on Confidentiality in Student Health and Welfare, and is in line with the College’s Data Protection Policy.

4. College members are advised to familiarise themselves with these guidelines, so that in an urgent situation they are well-informed and aware of the confidentiality framework.

Legal Context

5. There are a number of legal drivers and considerations around confidentiality underpinning these guidelines, including the Human Rights Act 1998 and the Data Protection Act 2018.

General Principles

6. Nuffield College aims to foster a culture within which students and other members of College feel able to raise personal and private matters as a means of seeking support or advice, and can be reassured that their discussions will be treated with the appropriate levels of confidentiality. To this end, the College operates in accordance with the following principles:

7. Respect for confidentiality
   
   7.1. 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.

   7.2. 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.

   7.3 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. 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;
• 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.

8. Seeking consent

8.1 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.

8.2 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 College’s Senior Tutor or the University’s Director of Student Welfare and Support Services.

9. Considering risk to others

The College 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.

10. Seeking advice

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 Officer, the College Doctor or Counsellor, or the University’s Student Counselling Service. This consultation should be done without divulging the name of the student concerned.

11. Promises of confidentiality

It is generally not appropriate to give absolute assurances of confidentiality to those who may wish to talk about health-related matters. See paragraph 7.3 of these guidelines for an outline of the appropriate approach to be taken when discussing how health related information will be dealt with.

12. Discussion with College Doctors, College Counsellor, and the University’s Counselling Service

It may be helpful for those advising students on health and welfare matters to talk to the College Doctors, the College Counsellor, members of the University's Student Counselling Service or the Director of Student Welfare and Support Services about 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 College Doctor or Counsellor without identifying the student concerned.
• In exceptional circumstances the College Doctors or Counsellor may wish to speak to the senior members of the College about a student. If the student is unwilling, confidentiality will be respected unless there are reasons not to within the relevant professional guidelines.
• Mature or part-time students may not be registered with the College GP or have easy access to the College Counsellor or the University’s Counselling Service. In this case it may be helpful to record the name of the student’s GP surgery where this is not the College GP. Case discussions with the College Counsellor or the University’s Counselling Service can still take place on a confidential no-names basis.

13. Contact with families

13.1 It is normally 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.

13.2 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.

Professional Guidelines

Doctors and NHS staff

14. 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."

15. NHS staff are bound by the Department of Health guidance, Confidentiality: NHS Code of Practice.

College Counsellor

16. The College Counsellor is accredited by the relevant professional body(s) (British Association for Counselling and Psychotherapy or UK Council for Psychotherapy or British Psychological Society) and is expected to abide by their ethical framework and guidelines on confidentiality.
University Student Welfare and Support Services

17. The University’s 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.

18. 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.

Disclosures to the police

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

a) Is it possible to obtain the consent of the relevant individual to the disclosure to the police?

b) 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 University’s Information Compliance Team (data.protection@admin.ox.ac.uk) for advice.

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

20. If College staff are unsure what to do in these circumstances, they could contact the relevant University Services for advice (e.g. Student Welfare and Support Services, Information Compliance Team).

Specific Problems

21. The University’s Guidance on Confidentiality in Student Health and Welfare contains additional helpful advice in connection with specific student welfare scenarios (e.g. student behavioural problems that pose a risk to the student themselves or others). College members are advised to refer to sections 6-8 of the University’s Guidance for further information about specific scenarios and recommended action.

These Guidelines were substantially revised in Michaelmas term 2019 in light of the University’s Guidance. Queries or concerns about these guidelines should be directed to the Senior Tutor in the first instance.

Revised version: 15 November 2019; Approved by Welfare Committee 18 November 2019