

# **CONFIDENTIALITY POLICY**

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## **General statement**

All schools, academies and colleges are asked, on occasions, to keep information confidential, by students, parents/carers and outside agencies. This can relate to a variety of issues including under age sexual activity, drugs use, abuse or other dangerous or illegal activities. It is important that any institution follows a clear and explicit policy regarding confidentiality.

All staff, external agencies/visitors working with students as part of the curriculum or the institution's pastoral support procedures will be made aware of this policy. Any external agencies/visitors to the institution who are teaching or working with groups of students must abide by this policy.

## **At Outwood Grange Academies Trust**

We believe the safety, well-being and protection of our students are the paramount consideration in all decisions staff at the Trust make about confidentiality. The appropriate sharing of information between staff, including those working for outside agencies, is an essential element in ensuring our community's well-being and safety. This policy forms part of the induction of all new staff, including voluntary staff and is reviewed every 3 years.

## **Aims**

- To protect the young person at all times and to give all staff involved clear, unambiguous guidance as to their legal and professional roles;
- To ensure good practice throughout the Academy which is understood by students, parents/carers and staff;
- To encourage young people to talk to a trusted adult if they are having difficulties;
- To give staff the confidence to deal with sensitive issues.

## **Rationale**

Outwood Grange Academies Trust seeks to put the young person at the heart of the learning process ("Students First") and to provide a safe and secure learning environment. It seeks to implement the fundamental principles of the Keeping Children Safe in Education document and Working Together to Safeguard Children 2015 and to address the issues which may arise about confidentiality. It is committed to developing creative and positive ways for the young person's voice to be heard whilst recognising the responsibility to use, hold and safeguard information received. Sharing information unnecessarily can be an erosion of trust.

The Trust is mindful that it is placed in a position of trust by all stakeholders and there is a general expectation that a professional approach will be used in all matters of confidentiality. It takes into full consideration the requirements of the Data Protection Act 2018.

## **Definition of confidentiality**

The dictionary definition of confidential is "something which is spoken or given in confidence; private, entrusted with another's secret affairs". Anyone offering absolute confidentiality to someone else would be offering to keep the content of his or her conversation completely secret and discussing it with no one else.

In practice there are few situations where **absolute** confidentiality is offered in the academy. We have tried to strike a balance between ensuring the safety, well-being and protection of our students and staff, ensuring there is an ethos of trust where students and staff can ask for help when they need it and ensuring that when it is essential to share personal information, child protection and good practice is followed.

This means that in most cases what is on offer to students who share sensitive issues is **limited** confidentiality. Disclosure of the content of a conversation could be discussed with professional colleagues but the confider would not be identified except in certain circumstances.

The general rule is that staff should make clear that they are not allowed to maintain confidentiality, at the beginning of the conversation. In fact, in the case of child protection, staff should never inform a child that they will keep matters confidential and that they would have to at the very least, pass on the information to the designated safeguarding lead. There are however limits to circumstances which relate to the student, and s/he will be informed when a confidence has not been adhered to for this reason and they will be encouraged to share their information themselves whenever this is possible. Different levels of confidentiality are appropriate for different circumstances as detailed below.

1. **In the classroom in the course of a lesson** given by a member of teaching staff or an outside visitor, including health professionals.

Careful thought needs to be given to the content of the lesson, setting the climate and establishing ground rules to ensure confidential disclosures are not made publically. It should be made clear to students that this is not the time or place to disclose confidential, personal information.

When a health professional is contributing to an academy's health education programme in a classroom setting, s/he is working with the same boundaries of confidentiality as a teacher. All visitors should have seen the confidentiality policy if their work involves exploring sensitive issues such as relationship and sex education (RSE) and drugs, alcohol and tobacco education (DA&Te).

2. **One to one** disclosures to members of academy staff (including voluntary staff).

It is essential all members of staff know the limits of the confidentiality they can offer to both students and parents/carers<sup>1</sup>, and any required actions and sources of further support or help available both for the student and/or parent/carer, and for the staff member within the academy and from other agencies, where appropriate. All staff employed by the academy encourage students to discuss difficult issues with their parents or carers, and vice versa. However, the needs of the student are paramount and academy staff will not automatically share information about the student with his/her parents/carers unless it is considered to be in the student's best interests.

3. **Disclosures to a counsellor, school nurse, health professional or youth worker or any other professional working at the academy providing a confidential service**

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<sup>1</sup> **Note:** That is, that when concerns for a student or young person come to the attention of staff, for example through observation of behaviour or injuries or disclosure, however insignificant this might appear to be, the member of staff should discuss this with the Designated Safeguarding Lead (DSL) as soon as is practically possible. More serious concerns must be reported immediately to ensure that any intervention necessary to protect the child is accessed as early as possible.

Health professionals such as school nurses can give confidential medical advice to students provided they are competent to do so and follow the Fraser Guidelines<sup>2</sup>. School nurses are skilled in discussing issues and possible actions with young people and always have in mind the need to encourage students to discuss issues with their parents or carers. However, the needs of the student are paramount and the school nurse will not insist that a student's parents or carers are informed about any advice or treatment they give.

**Contraceptive advice and pregnancy:** (This sections should be read in conjunction with RSE and teenage pregnancy policies).

The Department of Health has issued guidance which clarifies and confirms that health professionals owe young people under 16 the same duty of care and confidentiality as older patients. It sets out principles of good practice in providing contraception and sexual health advice to under-16s. The duty of care and confidentiality applies to all under-16s. Whether a young person is competent to consent to treatment or is in serious danger is judged by the health professional on the *circumstances of each individual case*, not solely on the age of the patient. However, the younger the patient the greater the concern that they may be being abused or exploited. The guidance makes it clear that health professionals must make time to explore whether there may be coercion or abuse. Cases of grave concern would be referred through child protection procedures.

### **The legal position for academy staff**

Outwood Grange Academies Trust staff (including non-teaching and voluntary staff) should not promise total confidentiality. Students do not have the right to expect that incidents will not be reported to his/her parents/carers and may not, in the absence of an explicit promise, assume that information conveyed outside that context is private. No member of this academy's staff can or should give such a promise.

The safety, well-being and protection of the young person is the paramount consideration in all decisions staff at the academy make about confidentiality.

Staff that are health professionals, the Police or working for other agencies are NOT obliged to break confidentiality except where child protection is or may be an issue, however, at the Trust we believe it is important that all staff are able to share their concerns about students with colleagues in a professional and supportive way, on a need to know basis, to ensure staff receive the guidance and support they need and the students' safety and well-being is maintained. Staff should discuss such concerns with their line manager and/or the designated safeguarding lead (see child safeguarding policy).

### **Teachers, counsellor and health professionals**

Professional judgement is required by a teacher, counsellor or health professional in considering whether he or she should indicate to a student that they could make a disclosure in confidence and whether such a confidence could then be maintained having heard the information. In exercising their professional judgement, the teacher, counsellor or health professional must consider the best

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<sup>2</sup> See Appendix 1 (guidelines for doctors and other health professionals on giving medical advice to under 16s) - The Fraser Guidelines.

interests of a student including the need to both ensure trust and to provide safeguards for them balancing this with possible child protection issues.

All teachers at this academy receive basic safeguarding training in child protection as part of their induction to this academy and are expected to follow the academy's child protection policy and procedures.

### **Counsellors and health professionals**

At many academies across the Trust we offer students the support of:

- a counsellor, whether that be at the academy or via medical professionals;
- trainee social workers who can help and support young people in making decisions on well-being;
- the school nursing service who operate a drop-in service for students.

These services are confidential between the counsellor, social worker or health professional and the individual student. No information is shared with academy staff except as defined in the academy's child protection policy, and guidance from the Local Safeguarding Children's Board and child protection law. This is essential to maintain the trust needed for these services to meet the needs of our students.

### **Visitors and non-teaching staff**

At the Trust, we expect all non-teaching staff, including voluntary staff, except in those circumstances identified in the paragraph above, to report any disclosures by students or parents/carers of a concerning personal nature to the designated safeguarding lead as soon as possible after the disclosure and in an appropriate setting so others cannot overhear. This is to ensure the safety, protection and well-being of all our students and staff. The designated safeguarding lead (DSL) will decide what, if any, further action needs to be taken both to ensure the student gets the help and support they need and that the member of staff also gets the support and supervision they need. Visitors to the academy should be offered the opportunity to read the policy (especially if they are working on sensitive issues such as RSE and DA&Te.)

### **Parents/carers**

The Trust believes that it is essential to work in partnership with parents and carers and we endeavour to keep parents/carers abreast of their child's progress at the academy, including any concerns about their progress or behaviour. However we also need to maintain a balance so that our students can share any concerns and ask for help when they need it. Where a young person does discuss a difficult personal matter with staff at the academy, they will be encouraged to also discuss the matter with their parent or carer themselves.

The safety, well-being and protection of our students is the paramount consideration in all decisions staff make about confidentiality.

## **Complex cases**

Where there are areas of doubt about the sharing of information, seek consultation with the local safeguarding children board via the designated safeguarding lead. This section should be read in conjunction with the Trust's drugs, alcohol and tobacco education policy, sex and relationship education policy and the teenage pregnancy policy.

- It is an essential part of the ethos of our academy that trust is established to enable students, staff and parents/carers to seek help both within and outside the academy and minimise the number of situations when personal information is shared to ensure students and staff are supported and safe.
- Students, parents/carers and staff need to know the boundaries of confidentiality in order to feel safe and comfortable in discussing personal issues and concerns, including sex and relationships.
- The academy's attitude to confidentiality is open and easily understood and everyone should be able to trust the boundaries of confidentiality operating within it.
- Issues concerning personal information including sex and relationships and other personal matters can arise at any time.
- Everyone in the academy community needs to know that no one can offer absolute confidentiality.
- Everyone in the academy community needs to know the limits of confidentiality that can be offered by individuals within the academy community so they can make informed decisions about the most appropriate person to talk to about any health, sex and relationship or other personal issues they want to discuss.

## **When confidentiality should be broken and procedures for doing this**

This section should be read in conjunction with the child safeguarding policy.

Where this does not apply and you are still concerned and unsure of whether the information should be passed on or other action taken you should immediately speak to the designated safeguarding lead (DSL). If the CEO, Regional CEO, Executive Principal or Principal issues instructions that s/he should be kept informed, all staff must comply. There is always a good reason for this, which you may not know about.

The principles we follow at the Trust are that in all cases we:

- Ensure the time and place are appropriate, when they are not we reassure the student that we understand they need to discuss something very important and that it warrants time, space and privacy.
- See the student normally (and always in cases of neglect, or abuse) before the end of the academy day. More serious concerns must be reported immediately to ensure that any

intervention necessary to protect the student is accessed as early as possible. If ever in doubt, pass the information on.

- Tell the student we cannot guarantee confidentiality if we think they will:
  - hurt themselves;
  - hurt someone else;
  - tell us that someone is hurting them or others.

It is important that we:

- do not interrogate the student or ask leading questions;
- don't put students in the position of having to repeat distressing matters to several people;
- inform the student first before any confidential information is shared, with the reasons for this;
- encourage the student, whenever possible to confide in his/her own parents/carers.

### **Support for staff**

Staff may have support needs themselves in dealing with some of the personal issues of our students. At Outwood Grange Academies Trust we prefer you to ask for help rather than possibly making a poor decision because you don't have all the facts or the necessary training, or taking worries about students home with you. There are many agencies to which we can refer students who need additional support and we have procedures to ensure this happens. We all work together as part of a team to support our students and asking for help is a way we ensure the academy is a happy and safe learning environment.

Teaching staff should discuss any concerns about students with a member of staff who is a designated safeguarding lead. Any unresolved issues should be discussed with the Principal.

### **Onward referral**

The SENDCo/inclusion coordinator/learning manager /designated safeguarding lead, is responsible for referring students to a counsellor and to other outside agencies from the academy. Please do not make referrals yourself unless you believe a child protection referral to the police or children's services is necessary and the designated person does not agree. However it is important that you immediately discuss your concern with the Principal unless of course the designated safeguarding lead is the Principal. In this case, you should contact the Executive Principal, Regional CEO or CEO. If this is not possible due to possible time constraints, contact children's services yourself and make a referral. The child safeguarding policy makes it very clear that anyone can refer in certain circumstances as detailed above.

Students can also obtain confidential help themselves; for access to various agencies, students can go online, GP, local drug and alcohol agencies, NSPCC, Childline etc.

## Appendix I

### Fraser guidelines

When deciding whether a child is mature enough to make decisions, people often talk about whether a child is 'Gillick competent' or whether they meet the 'Fraser guidelines'.

Gillick competency and Fraser guidelines refer to a legal case which looked specifically at whether doctors should be able to give contraceptive advice or treatment to under 16-year olds without parental consent. But since then, they have been more widely used **to help assess whether a child has the maturity to make their own decisions and to understand the implications of those decisions.**

Any medical staff having a discussion with a young person under 16 years old should gently explore the following details at each consultation. These should be fully documented and should include an assessment of the young person's maturity, and whether they are acting voluntarily.

### Fraser Guidelines – background

In 1982 Mrs Gillick challenged the lawfulness of Department of Health guidance that doctors could provide contraceptive advice and treatment to girls under the age of 16 without parental consent or knowledge in some circumstances.

The House of Lords (Lord Fraser) in 1985 upheld that a doctor could give contraceptive advice and treatment to a young person under the age of 16 if:

- she had sufficient maturity and intelligence to understand the nature and implications of the proposed treatment;
- she could not be persuaded to tell their parents or to allow her doctor to tell them;
- she was very likely to begin or continue having sexual intercourse with or without contraceptive treatment;
- her physical or mental health were likely to suffer unless she received the advice or treatment;
- the advice or treatment was in the young person's best interests.