

# Confidentiality

All information shared with the College Nurses is confidential, from the most sensitive diagnosis, to the fact that a student has been seen.

Sometimes the College Nurses may believe it is in a student's interest for information to be shared with other Healthcare Professionals or University Staff. However no disclosure will take place without the student's prior, explicit & informed consent.

The only circumstances where information may be shared without a student's consent are:

- When it is a statutory requirement or in response to a court order
- When the public interest in passing the information on outweighs the duty of confidence to the patient.

## Confidentiality Policy – Health & Wellbeing Centre

The College Nurses are bound by strict guidelines on medical confidentiality as codified by the [Nursing and Midwifery Council \(2019\)](#).

### What is confidentiality?

A duty of confidence arises when one person discloses information to another in circumstances where it is reasonable to expect that the information will be held in confidence.

The common law of confidentiality reflects that students have a right to expect that information given to the College Nurses is only used for the purpose for which it was given and will not be disclosed without permission. This covers situations where information is disclosed directly to the nurse and also to information that the nurse obtains from others.

One aspect of privacy is that individuals have the right to control access to their own personal health information.

It is not acceptable for the College Nurses to:

- discuss matters related to the people in their care outside the clinical setting
- discuss a case with colleagues in public where they may be overheard
- leave records unattended where they may be read by unauthorised persons.

### Legislation relating to confidentiality

- The Data Protection Act 1998. This Act governs the processing of information that identifies living individuals. Processing includes holding, obtaining, recording, using and disclosing of information and the Act applies to all forms of media, including paper and electronic
- The National Health Service Venereal Disease Regulations (SI 1974 No.29). This states that health authorities should take all necessary steps to ensure that identifiable information relating to persons being treated for sexually transmitted diseases should not be disclosed
- The Mental Capacity Act (2005). This provides a legal framework to empower and protect people who may lack capacity to make some decisions for themselves. The assessor of an “individual’s

capacity to make a decision will usually be the person who is directly concerned with the individual at the time the decision needs to be made” this means that different health and social care workers will be involved in different capacity decisions a different times

- The Freedom of Information Act 2000 and Freedom of Information (Scotland) Act 2002. These Acts grant people rights of access to information that is not covered by the Data Protection Act 1998, e.g. information which does not contain a person’s identifiable details
- The Computer Misuse Act 1990. This Act secures computer programmes and data against unauthorised access or alteration. Authorised users have permission to use certain programmes and data. If the users go beyond what is permitted, this is a criminal offence.

## Disclosure

Disclosure means the giving of information. Disclosure is only lawful and ethical if the individual has given consent to the information being passed on. Such consent must be freely and fully given.

Consent to disclosure of confidential information may be:

- explicit
- implied
- required by law or
- capable of justification by reason of the public interest

## Disclosure with consent

Explicit consent is obtained when the person in the care of the College Nurses agrees to disclosure having been informed of the reason for that disclosure and with whom the information may or will be shared. Explicit consent can be written or spoken.

Implied consent is obtained when it is assumed that the person in the care of the College Nurses understands that their information may be shared within the **healthcare team, in the college setting this would be local GPs, practice nurses etc. not College staff**). The College Nurses request consent to liaise with other health professionals when necessary via the Student Health Questionnaire. Any objections are recorded and strictly adhered to.

## Disclosure without consent

The term ‘public interest’ describes the exceptional circumstances that justify overruling the right of an individual to confidentiality in order to serve a broader social concern.

Under common law, the College Nurses are permitted to disclose personal information in order to prevent and support detection, investigation and punishment of serious crime and/or to prevent abuse or serious harm to others.

Such decisions are complex and must take account of both the public interest in ensuring confidentiality against the public interest in disclosure. Disclosures should be proportionate and limited to relevant details.

It may be necessary to justify disclosures to the courts or to the Nursing & Midwifery Council so the College Nurses must keep a clear record of the decision making process and advice sought.

### **Disclosure to the police**

In English law there is no obligation placed upon any citizen to answer questions put to them by the police. However, there are some exceptional situations in which disclosure is required by statute. These include:

- the duty to report notifiable diseases in accordance with the Public Health Act 1984
- the duty to inform the Police, when asked, of the name and address of drivers who are allegedly guilty of an offence contrary to the Road Traffic Act 1998
- the duty not to withhold information relating to the commission of acts of terrorism contrary to the Terrorism Act 2000
- the duty to report relevant infectious diseases in accordance with the Public Health (Infectious Diseases) Regulations 1998.

### **Police and Criminal Evidence Act (1984)**

This Act allows the College Nurses to pass on information to the police if they believe that someone may be seriously harmed or death may occur if the police are not informed.

Before any disclosure is made the College Nurses should always discuss the matter fully with other professional colleagues and, if appropriate consult the NMC or their trade union. To ensure they are aware of their organisational policies and how to implement them.

Wherever possible the issue of disclosure should be discussed with the individual concerned and consent sought. If disclosure takes place without the person's consent they should be told of the decision to disclose and a clear record of the discussion and decision should be made as stated above.

In some circumstances it may not be appropriate to inform the person of the decision to disclose, for example, due to the threat of a violent response. The College Nurses may feel that, because of specific concerns, a supplementary record is required containing details of the disclosure.

The Data Protection Act 1998 does allow for healthcare professionals to restrict access to information they hold on a person in their care, if that information is likely to cause serious harm to the individual or another person. A supplementary record should only be made in exceptional circumstances as it limits the access of the person in the care of the nurse or midwife to information held about them. All members of the health care team should be aware that there is a supplementary record and this should not compromise the persons' confidentiality.

[NHS Confidentiality Code of Practice \(Department of Health, November 2003\)](#)

[The Data Protection Act 1998](#)

[The code: Standards of conduct, performance and ethics for nurses and midwives \(2019\)](#)

[The National Health Service Venereal Disease Regulations \(SI 1974 No.29\).](#)

[The Mental Capacity Act \(2005\)](#)

[The Freedom of Information Act 2000](#) and [Freedom of Information \(Scotland\) Act 2002](#)

[The Computer Misuse Act 1990.](#)

For more Information see:

Health & Wellbeing Centre - Data Protection Statement at:  
[www.clare.cam.ac.uk/College-Nurse/](http://www.clare.cam.ac.uk/College-Nurse/)

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