

Confidentiality Policy

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Confidentiality Policy

Rationale

At schools belonging to the Mulberry Schools Trust (MST):

- The safety, wellbeing and protection of our pupils are the paramount considerations in all decisions staff make about confidentiality. The appropriate sharing of information between school staff is an essential element in ensuring pupils' wellbeing and safety.
- It is an essential part of the ethos of the schools within MST that trust is established to enable pupils, staff and parents/carers to seek help, both within and outside the school, and minimise the number of situations when personal information is shared to ensure pupils and staff are supported and safe.
- Pupils, parents/carers and members of staff need to know the boundaries of confidentiality that can be offered by individuals in order to feel safe and comfortable in discussing personal issues and concerns, including sex and relationships, and to make informed decisions about the most appropriate person with whom to talk.
- The Trust's attitude to confidentiality is open and easily understood; everyone should be able to trust the boundaries of confidentiality operating within the school.
- Issues concerning personal information including sex and relationships and other personal matters can arise at any time.
- MST has experienced Inclusion Teams within its schools. These can include: learning mentors, counsellors/art therapists, school social workers, attendance and welfare officers and Police Liaison Officers and they and everyone in the Trust's school communities understand that no-one can offer absolute confidentiality.

The Data Protection, Freedom of Information, Human Rights, Children Act and the Information Sharing: Practitioners Guide all need to be taken into consideration when operating this policy. (See Appendix 1).

Definition of Confidentiality

The dictionary definition of confidential is "something which is spoken or given in confidence; private, entrusted with another's secret affairs".

When speaking confidentially to someone, the confider has the belief that the confidant will not discuss the content of the conversation with another. The confider is asking for the content of the conversation to be kept secret. Anyone offering absolute confidentiality to someone else would be offering to keep the content of his or her conversation completely secret and discuss it with no one.

In practice, absolute confidentiality is not offered in school. A balance needs to be struck between ensuring the safety, wellbeing and protection of pupils and members of staff, ensuring there is an ethos of trust where pupils and members of staff can ask for help when they need it and ensuring that, when it is essential to share personal information, excellent child protection practice is followed. This means that in most cases what is possible 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 members of staff should make clear that there are limits to confidentiality, at the beginning of the conversation. These limits relate to ensuring children's safety and wellbeing. The pupil will be informed when a confidence has to be broken for this reason and will be encouraged to do this for herself whenever this is possible.

Different levels of confidentiality are appropriate for different circumstances.

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. It should be made clear to pupils that this is not the time or place to disclose confidential, personal information. When a health professional is contributing to a school Health Education Programme in a classroom setting, s/he is working within the same boundaries of confidentiality as a teacher.

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

It is essential that all members of staff know the limits of the confidentiality they can offer to both pupils and parents/carers (see note below). They must be aware of any required actions and sources of further support or help available; both for the pupil or parent/carer, and for the staff member within the school and from other agencies, where appropriate.

All members of staff encourage pupils to discuss difficult issues with their parents or carers, and vice versa. However, the needs of the pupil are paramount and school staff members will not automatically share information about the pupil with her parents/carers unless it is considered to be in the child's best interests.

When concerns for a child or young person come to the attention of staff, for example through observation, behaviour, injuries or a disclosure (however insignificant these might appear to be) the member of staff must discuss this with the school's Designated Senior Person for Child Protection and / or other Designated Safeguarding Lead (see CP and Safeguarding Policy) as soon as is practically possible. More serious concerns must be reported immediately. The school's Designated Senior Person for Child Protection will then decide what, if any, action needs to be taken, to ensure that the pupil gets the help and support s/he needs and that the member of staff also gets the support and supervision s/he might need. Please see the school Child Protection and Safeguarding Policy.

3. Disclosures to the school social worker

Pupils are offered the support of a qualified school social worker who is skilled at working with students and their parents to resolve a range of issues. This work is preventative, early intervention and primarily at Tier 3 before meeting the threshold of Child Protection. The wellbeing of the student is paramount and all information is uploaded on the social care data base. If a serious concern is disclosed the social worker will pass to the Child Protection Duty Team and inform the school's Designated Senior Person for Child Protection.

4. Disclosures to the counsellor, school health adviser or other health professionals operating a confidential service in the school.

At schools within MST, pupils are offered the support of a counsellor or other similar professionals with appointments accessed discreetly. These services are confidential between the counsellor or other professional and the individual pupil. No information is shared with school staff, except as defined in the school's Child Protection and Safeguarding Policy and as advised by the Safeguarding Advice service. This is essential to maintain the trust needed for these services to meet the needs of pupils.

Health professionals including school nurses can give confidential, medical advice to pupils and follow the Fraser Guidelines (guidelines for doctors and other health professionals on giving medical advice to under 16s). LBTH school nurses are skilled in discussing issues and possible actions with young people and always have in mind the need to encourage pupils to discuss issues with their parents or carers. However, the needs of the pupil are paramount, and the school Inclusion team will not insist that a pupil's parents or carers are informed about any advice or treatment given.

The school health adviser and LBTH nurse follow the NMC Code of Conduct.

Contraceptive advice and pregnancy:

The DoH 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 s/he 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. "Keeping Children Safe in Education", DfE 2021, provides the Statutory Guidance on such issues.

The legal position for school staff:

School staff (including non-teaching and voluntary staff) should not promise confidentiality. Pupils do not have the right to expect that incidents will not be reported to parents/carers and may not, in the absence of an explicit promise, assume that information conveyed outside that context is private. No member of staff can, or should, give such a promise. The safety, wellbeing and protection of the child is the paramount consideration in all decisions members of staff at this school make about confidentiality.

Members of the school staff are NOT obliged to break confidentiality except where child protection (including self-harm) is or may be an issue. At schools in MST it is important that members of staff are able to share their concerns about pupils 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 pupils' safety and wellbeing are maintained. In these situations the concern must not be ignored.

Members of school staff should discuss such concerns with the school's Designated Senior Person for Child Protection.

Seeking consent for sharing information should always be the first option. Children aged twelve or over may generally be expected to have sufficient understanding to give informed consent.

The sharing of confidential information without consent will normally be justified when there is either evidence or a reasonable cause to believe that the child is suffering or at the risk of suffering significant harm.

Teachers, school counsellor and health professionals:

Professional judgement is required by a teacher, school social worker, counsellor or health professional in considering whether he or she should indicate to a child that the child could make a disclosure in confidence and whether such a confidence could then be maintained having heard the information. In exercising his/her professional judgement, the teacher, counsellor or health professional must consider the best interests of the child, including the need to ensure trust, to provide safeguards for pupils and to be aware of possible safeguarding issues.

Record keeping:

All records involving confidential disclosures are stored in the relevant member of staff's filing system/CPOMs system. Any disclosures which may involve safeguarding issues are stored in a separate file which is kept by the Designated Senior Person for Child Protection, in secure cabinets or files.

All teachers receive basic training in child protection as part of their induction to this school and are expected to follow the school's safeguarding policy and procedures. An annual briefing is made to all staff.

Parents/carers:

It is essential to work in partnership with parents and carers, and the school endeavours to keep parents/carers informed of their daughter's/son's progress at school, including any concerns about her progress or behaviour. However, there also needs to be a balance so that pupils can share any concerns and ask for help when they need it. Where a pupil does discuss a difficult, personal matter with a member of staff at school, s/he will be encouraged also to discuss the matter with her parent or carer himself or herself.

Complex cases:

Where there are areas of doubt about the sharing of information, the Designated Senior Person for Child Protection will seek advice from the Child Protection Advice Line (see CP Policy)

Links to other school policies and procedures:

This policy is intended to be used in conjunction with the following school policies:

PSHEE
Drugs
Sex and Relationships
Child Protection and Safeguarding
Behaviour Management
Anti-Bullying
Inclusion

Statement of ground rules to be used in lessons

Ground rules help to ensure a safe environment for teaching, in particular in PSHEE. This reduces anxiety for pupils and members of staff and minimises unconsidered, unintended personal disclosures. At the beginning of each academic year every PSHEE session (Years 7 – 11) is advised of basic ground rules by the teacher who also devises their own supplementary rules.

When confidentiality should be broken and procedures for doing this:

See the Child Protection Policy. Where this does not apply and a member of staff is still concerned and unsure of whether the information should be passed on or other action taken, he/she should speak to the Designated Senior Person for Child Protection.

If the headteacher / principal issues instructions that s/he should be kept informed, all members of staff must comply. There is always a good reason for this, of which members of staff may be unaware.

The principles followed are that in all cases:

- The time and place must be appropriate. When they are not, the pupil should be reassured that it is understood that s/he needs to discuss something very important and that it warrants time, space and privacy. The pupil should normally (and always in cases of neglect or abuse) be seen before the end of the school day. More serious concerns must be reported

immediately to ensure that any intervention necessary to protect the pupil is accessed as early as possible.

- The pupil must be told that confidentiality cannot be guaranteed if it seems s/he might hurt herself, hurt someone else or that s/he says someone is hurting her/him or others.
- The pupil should not be interrogated or asked leading questions
- Children should not be placed in the position of having to repeat distressing matters to several people
- The pupil must be informed first before any confidential information is shared, with the reasons for this
- The pupil should be encouraged, whenever possible, to confide in her own parents/carers

Support for staff

Members of staff may have support needs themselves in dealing with some of the personal issues of pupils. Members of staff should ask for help rather than possibly making a poor decision because they do not have all the facts, or the necessary training. There are many agencies to which pupils that need additional support can be referred and there are procedures to ensure this happens.

Teaching and Support staff should discuss any concerns about pupils with the Designated Senior Person for Child Protection in the first instance. Any unresolved issues should be discussed with the Headteacher / principal.

Onward referral:

The Designated Senior Person for Child Protection and Heads of Year are responsible for referring pupils to any member of the school inclusion team; school counsellor, school social worker, learning mentors, school nurse, AWA, school police officer and to outside agencies from the school.

Pupils can also obtain confidential help themselves from other agencies, e.g. school nurse drop-ins, 4YP clinics, GP, local drug and alcohol agencies, Childline, etc.

Dissemination and implementation:

This policy will be available to all teaching and non-teaching staff, including volunteers, through the school intranet. It will be also be displayed on the school website. All new staff, including volunteers, receive a copy of the policy, together with basic training on the school's Child Protection Policy and procedures from the Designated Senior Person for Child Protection.

Appendix 1

Human Rights Act 1998: Gives everyone the right to “respect for his private and family life, his home and his correspondence”, unless this is overridden by the ‘public interest’, e.g. for reasons of child protection and safeguarding, for the protection of public safety, public order, health or morals or for the rights and freedoms of others.

Data Protection Act 2018: Applies to personal data of living, identifiable individuals, not anonymised data; manual and electronic records. Schools need to be clear, when collecting personal data, what purposes it will be used for and schools should have policies to clarify this to staff, pupils and parents.

Freedom of Information Act 2000: Amends the Data Protection Act. Gives everyone the right to request any records a public body, including schools, holds about them. A school may withhold information it has if it is considered the information may damage the recipient, if disclosed. Schools data or record keeping policy should also cover the requirements of this Act.

Keeping Children Safe in Education 2021

The Designated Safeguarding Lead is the Assistant Headteacher for Inclusion.

Appendix 2

School Visitors and Confidentiality

The school has a Confidentiality Policy, in line with DfE Guidance. Visitors are welcome to obtain a copy from the Designated Safeguard Lead.

All support staff including voluntary staff are expected to report any disclosures made by pupils or parents/carers of a concerning personal nature to the Designated Safeguard Lead as soon as possible after the disclosure. This should be done in an appropriate setting, so that others cannot hear. This is to ensure the safety, protection and wellbeing of all pupils and staff. The Designated Safeguard Lead will decide what, if any, further action needs to be taken.