

pulling it Confidentiality Guidance together



the learning trust
the future for education in Hackney

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CONFIDENTIALITY

guidance

Introduction

Definition

Confidentiality can be defined as

- When one person receives personal or sensitive information from another person, they do not pass this information on to anyone else without the consent of the person they have received it from.

Confidentiality may arise as an issue when:

- adults receive personal information about young people;
- adults receive personal information about other adults;
- young people receive personal information about other young people, particularly where young people work together in groups or work as peer educators for other young people; and
- young people receive personal information about adults.

Context

It is very important to be clear about confidentiality in work with young people on health related issues. We know that one of the main reasons young people do not use services is that they feel their confidences will not be respected and that what they say might be passed on to others. We also know that young people who are consulted about health issues often do not feel able to be open about their views or behaviours for fear of who may have access to the information they provide.

Both adults and young people need to be clear about confidentiality and boundaries. If they are in a position where they may receive confidential information of a sensitive nature, it is very important they have adequate supervision and support. E. g. young people involved in peer mentoring may need training, guidance and support to help them identify situations where information must be passed on to others, to help them decide who to pass information to and how to do this.

Although respect for confidentiality is essential, schools cannot grant an absolute right to complete confidentiality in all circumstances.

The right to confidentiality needs to be balanced against the responsibility to protect children. Some children or young people need support to protect themselves from:

- deliberately harming themselves;
- harming other people; or
- being harmed by other people.

(See appendix 1: Child Protection)

Key Points

- Schools should have a clear and explicit confidentiality policy, which is communicated to pupils, staff and visitors.
- Teachers cannot offer pupils unconditional confidentiality.
- Teachers are not legally bound to inform parents or the headteacher of any disclosure unless the headteacher has specifically told them to do so
- If abuse is suspected, teachers are required to follow the school's child protection procedures
- Health professionals are bound by their professional code of conduct in one-on-one situations with individual pupils, but in a classroom situation, they should follow the school's confidentiality policy.

Questions to consider when developing a confidentiality policy

1. In what circumstances could confidentiality arise as an issue
 - for adults during the course of a project?
 - for adults who may be involved from other agencies?
 - for young people?
2. In what circumstances should confidentiality be broken, by whom and why?
3. If confidentiality should ever be broken, to whom should the information be passed?
4. What support should be available for people who may be party to confidential information?
5. Is the intention to record any confidential information? If so what information will be recorded, how will it be collected and who will have access to it? How can you ensure confidential records remain confidential?
6. How will the school take account of staff from different agencies with different ideas and practices of confidentiality?
7. How will adults and young people be made aware of the policy? How can their confidence in managing confidential information be built?
8. How can the policy and practice about confidentiality be best monitored in the future?

Confidentiality Policy

The following is a suggested framework for a confidentiality policy

Aim

- To ensure that all members of the school community understand their respective roles in relation to confidentiality

Pupil Involvement

The school should ensure that pupils:

- know that teachers cannot offer unconditional confidentiality;
- are reassured that their best interests will be maintained;
- know that if confidentiality has to be broken, they will be informed first and then supported as appropriate;
- are encouraged to talk to their parents or carers and are provided with support to do so;
- are informed of alternative sources of confidential help, for example, the school nurse, counsellor, GP or local young person's advice centre;
- are given the opportunity to agree ground rules for lessons where sensitive issues may arise. These ground rules should be behaviour focused and implementation should be consistent and rigorous.

Parental / Carer Involvement

The school should ensure that parents / carers:

- understand the school's policy in relation to confidentiality;
- are encouraged to talk to their children and opportunities to support them in this are built into school planning.

Staff Involvement

All school staff should understand:

- the school's policy in relation to confidentiality;
- the fact that they cannot offer unconditional confidentiality to pupils;
- the boundaries agreed by the school in relation to sensitive issues;
- the agreed procedure for recording and reporting disclosures and the nature of access to this information.

Headteachers and governors

Headteachers and governors should monitor:

- disclosures to staff within the agreed boundaries in the school. If disclosures are frequent this may point to deficiencies in young people's awareness of, or confidence in, sources of confidential medical advice. This should be addressed in the school's PSHCE programme;
- for consistency in implementation of the policy, ensuring boundaries are not being overstepped and that new staff receive information about this policy in their induction.

Agency Involvement - Health Professionals

Health professionals are bound by their professional code of conduct to maintain confidentiality. When working in a classroom situation, they are also bound by relevant school policies. They should seek to protect privacy and prevent inappropriate personal disclosures in a classroom setting by negotiating ground rules and using distancing techniques.

Outside the teaching situation, health professionals such as school nurses can:

- give one-to-one advice or information to a pupil on a health related matter including contraception, and;
- exercise their own professional judgement as to whether young people have the maturity to consent to medical treatment, including contraceptive advice. (The criteria for making such a decision can be found in the Fraser guidelines, which can be found in guidelines jointly issued by the Health Education Authority, the British Medical Association, Brook Advisory Centres and others). Any competent young person, regardless of age, can independently seek medical advice and give valid consent to treatment
- New guidance for health professionals on confidentiality in providing contraceptive services to young people under sixteen was issued by the Department of Health in 2000

Boundaries / Specific Issues

- If there is any possibility of abuse, school's child protection procedure should be followed.
- On the rare occasion an adult is directly approached by a primary aged child who is sexually active or contemplating sexual activity, this should be viewed as a child protection issue.
- If a teacher learns from a young person under sixteen that he or she is having, or contemplating having, sexual intercourse, schools ought to be in a position to ensure that:
 - wherever possible, the young person is persuaded to talk to their parent or carer;
 - that he or she has been adequately counselled and informed about contraception, including precise information about where young people can access contraception and advice services; and
 - any child protection issues are addressed.
- If a pupil discloses information at an inappropriate time or place, the teacher should talk again individually to the pupil before the end of the school day.
- If the teacher is unclear about the seriousness of the disclosure, it is important to try to clarify the issue with a trusted colleague, without giving the name of the pupil, before deciding to share the information

Recording and reporting confidential information

- The school should agree the process for recording disclosures when a decision has been taken not to share them
- The school should agree a process for recording disclosures that are available for sharing and agree who has access to this information

Appendix 1: Child Protection

Children cannot learn effectively if they are frightened or concerned about being abused or being subjected to violence in the home. They have the right to expect schools to provide a safe and secure environment. Any fears or worries they bring into the classroom should not go unnoticed by staff or external partners. Teachers need to be aware that effective sex and relationship education, which brings an understanding of what is and what is not acceptable in a relationship, can lead to disclosure of a child protection issue.

If a member of a school staff (teaching or non-teaching) or external partner suspects that a child has experienced abuse or they have reason to believe that he/she is at risk of abuse, they should follow the procedures for reporting their concerns to the designated teacher for child protection in the school.

In line with DfES guidance:

- All staff should be alert to signs of abuse and know to whom they should report their suspicions
- All schools and colleges should have child protection policies, which should include procedures to be followed if an allegation is made against a member of staff; and
- All schools and colleges should have a senior member of staff with designated responsibility for child protection, who should receive appropriate training

Joint guidance by the DfEE and DoH published 1999 – “*Working together to safe guard Children*” - sets out how all agencies and professionals should work together to promote children’s welfare and protect them from abuse and neglect.

Schools must be clear about the boundaries of their legal and professional roles and responsibilities and aware of their legal duties under Section 75 of the Education Act 2002. A clear confidentiality policy should ensure good practice throughout the school, which both parents and pupils understand. Teachers cannot offer or guarantee absolute confidentiality.