



# Confidentiality Statement

## Magdalene College

The College cannot promise to maintain absolute confidentiality because, if students or other individuals are in danger, further help may need to be sought. Nonetheless, confidentiality will normally be maintained within the College Welfare Team on a *strictly need-to-know* basis.

### College Welfare Team

The College Welfare Team consists of the Senior Tutor, the Tutors, the Tutorial Office Staff, the College Nurse, the College Counsellor, the College Dean, the College Chaplain, the College Harassment Officers, and the Head Porter. Directors of Studies (DoS) may also be involved in the discussion of student welfare.

### The nature of confidentiality

Student welfare information disclosed to College Staff is treated as confidential to the College Welfare Team rather than absolutely confidential. A Tutor may need to share student information with other members of the College Welfare Team. However, even within the College Welfare Team this would only be on a *strictly need-to-know* basis.

Disclosure to any party or parties external to the College Welfare Team (eg the wider College and Collegiate University, including Faculties and Departments, the University Counselling Service, the Disability Resource Centre, the Police, or other government agencies etc) would normally only be made where

- (i) The student has explicitly consented; or
- (ii) There is clear risk of imminent and serious harm to that student or to others in which a duty of care outweighs the duty of confidentiality; or
- (iii) There is a legal obligation to do so.

### Duty of care, and imminent and serious risk of harm

Tutors and Tutorial Office Staff may owe a duty of care to a student or others that cannot be discharged unless the College takes action on information provided to it by a student in confidence.

A duty of care would normally override any obligations regarding confidentiality where there is an **imminent and serious risk of harm** to the individual or to others. This will include consideration of whether the risk of harm is actual or probable (not just 'possible'), and when that harm would have a **substantial and significant** detrimental effect on the individual's or another's physical, psychological or emotional wellbeing.

### **Consent to disclose**

It is considered best practice, if reasonable and practicable, to seek the student's consent to share information about them with another party before doing so, even if a breach of confidentiality without consent is justified. A record of any disclosures and consent will be made together with any withholding of disclosure to family members.

### **Relevant professional guidelines on confidentiality**

It is important to note that certain health and welfare professionals will be bound by particular confidentiality obligations imposed by their regulating body or institution and whilst it may be justifiable for the College Welfare Team to share information with them in their professional capacity to support the resolution of a student issue, they may not be able to reciprocate in the sharing of information owing to professional limitations. Professionals may include GPs and Nurses, the University Counselling Service, Chaplains, and the Students' Unions' Advice Service.

### **Disclosure to a law enforcement agency as part of an investigation**

The College may disclose information, without a student's consent, if the Police or other government agencies request data for law enforcement purposes, such as the Department for Work and Pensions, local authorities, HM Customs and Revenue, and UK Visas and Immigration where it would either

- (i) Risk national security; or
- (ii) Undermine the purposes of the disclosure (for example prejudicing the prevention or detection of serious crime, the apprehension or prosecution of offenders, or the assessment or collection of any tax or duty).

### **Disclosure in a crisis**

Where a student or others are in serious and/or imminent danger, the emergency services will be contacted without hesitation. Where the issue relates to mental health crisis and there is time to consider action, confidential advice may be sought from a UCS Mental Health Advisor (during office hours) or the NHS Mental Health First Response Team.

## **Communicable Disease Outbreaks**

Whilst confidentiality in the provision of medical care is recognised as being in everyone's interests, there can also be an interest in disclosing personal sensitive information in order to protect individuals or society from the risk of imminent and serious harm, such as from communicable diseases. In these circumstances, the disclosure of an individual's personal sensitive information would enable the tracing of contacts of an individual with a confirmed communicable disease to ensure that

- (i) Anyone who had come in to contact could obtain treatment expeditiously; and
- (ii) To prevent the wider spread of the disease.

Wherever possible, consent to share personal sensitive information about a student who has contracted a confirmed communicable disease will be sought from the student beforehand. However, it may also be disclosed on a *strictly need-to-know basis*, where a student is not able to consent or where consent has been withheld, if the benefits of the disclosure are deemed to significantly outweigh the student's interest in keeping the information confidential.

A list of notifiable communicable diseases can be found here:

<https://www.gov.uk/guidance/notifiable-diseases-and-causative-organisms-how-to-report>

## **Harassment and sexual misconduct**

The College has a Policy in Cases of Harassment and Procedure for Handling Cases of Harassment or Sexual Misconduct Raised by One Student (or Students) about another Student (or Students), details of both can be found at <https://www.magd.cam.ac.uk/policies-and-procedures/>

Advice regarding the University procedure can be sought from the Office of Student Conduct, Complaints and Appeals at [OSCCA@admin.cam.ac.uk](mailto:OSCCA@admin.cam.ac.uk), or on 01223 765440.

## **Gender reassignment**

If a student who wishes to transition to a gender other than that assigned at birth informs the College of that decision then how that information is managed, and who will reasonably need to have access to it within the College, central University and Faculty or Department etc will be discussed face to face between the student and their Tutor. The student must give written consent before the information can be shared as disclosure of information about gender transition or reassignment without consent may constitute a criminal offence. Any consent should identify the persons to whom information may be disclosed with as much detail as possible.

## **PREVENT Statutory Duty**

The Collegiate University has a legal responsibility in relation to the Counter Terrorism and Security Act 2015 and the Prevent Statutory Duty. If the College has a significant concern that a student may be particularly susceptible to radicalisation, in rare circumstances, a decision may be taken to share this

information and the details of the student in order to ensure that the individual concerned is supported appropriately. Wherever possible, the consent of the student concerned will be obtained in advance of any referral for support. If the College identifies a student who is already engaged in illegal terrorist-related activity any such individuals may be referred directly to the police.

### **Contact with families etc**

Students aged 18 or over are legally independent adults. The College will not ordinarily share any information about a student with a student's family, legal guardian or next of kin without the express consent from the student. This includes confirming whether the student is a member of the University or the College.

Exceptionally, the College may contact a student's family, legal guardian or next of kin to discuss a student without explicit consent if it is in the student's best interests, when, in the view of a medical professional, a student is

- (i) At risk of serious self-harm or is suffering from serious ill health, and
- (ii) Is lacking the capacity to make informed independent decisions.

### **Breaches of Confidentiality**

Students who wish to raise a concern about the way their personal, sensitive information has been handled and to allege any breaches of confidentiality in respect of a Tutor or Tutorial Office staff, or another College Welfare Team member should follow the College's Comments, Suggestions and Complaints from Students Procedure at <https://www.magd.cam.ac.uk/policies-and-procedures/>.

### **Data Protection**

The College collects data to monitor and to improve its services. The data is held in accordance with the terms of the General Data Protection Regulation and its Data Protection Policy <https://www.magd.cam.ac.uk/data-protection> .

*Dr S Martin*

*Last updated: 2 December 2019*

*Approved by: Governing Body Date: 17 May 2018*