

# Reuben College Guidance on Confidentiality in Student Health and Welfare

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## Introduction

This document is intended for all Reuben members involved in student<sup>2</sup> health and welfare for whom confidentiality might be an issue. It is also relevant to all staff who hold confidential student information, or to whom students may disclose such information, such as advisors, admin staff, accommodation officers, as well as porters and cleaners.

<sup>1</sup> Students are advised that wording has changed on Student Self-Service (eVision) when asking for emergency contact details. The University has adopted the term ‘Trusted contacts for emergencies’ and defined who makes a suitable contact, as well as making it clear that ‘emergencies’ includes a mental health crisis. There has been no change to the threshold for contacting a Trusted Contact (it remains when there is a risk of serious harm).

<sup>2</sup> This Guidance applies in the majority of cases to students. Where postgraduate students are also employees, e.g. as teachers or technicians, further considerations in relation to overriding confidentiality of special category health data for staff may apply.

It is designed to promote consistency in the way individual cases are handled, with paramount emphasis on student health and welfare. Staff in Reuben engaged with student welfare cases are advised by this Guidance to consider – after a careful balancing of the various interests concerned, including a risk of students not engaging with welfare services – disclosure of personal information about students, including special category data about a student’s physical or mental health where welfare staff reasonably believe that a Risk of Serious Harm to the student or others exists.

Colleagues are advised to familiarise themselves with this Guidance as part of induction or ongoing training in welfare matters, so that in an urgent situation staff are well informed and do not make decisions in isolation. The Director of Student Welfare and Support Services can advise colleagues on a no-names basis.

This Guidance applies to all students studying at Reuben including those on overseas research trips. Students overseas may not be able to access the full range of welfare services referenced in this guidance, but the general principles still apply.

## 1. Definitions

- 1.1. “Health” in this document means both physical and/or mental health.
- 1.2. “Risk” means a risk that a person involved in student health and welfare considers is reasonably possible to occur given the facts within their knowledge. They need not conclude an outcome is more likely than not, only that they reasonably believe an outcome is possible.
- 1.3. “Serious Harm” means:
  - a. death or serious mental or physical injury, including from illegal drug use and sexual assault, and/or
  - b. suicide (whether or not there is or has been an attempt or intent to end their life) and/or
  - c. self-harm; and/or
  - d. endangering the life, health or safety of any other person.

## 2. General Legal Context

- 2.1. In general, information relating to the health and welfare of an individual will amount to special category data (as defined in the UK General Data Protection Regulation (UK GDPR)) and must be kept confidential and only disclosed with consent. This Guidance sets out the basis for dealing with exceptions to that general rule.
- 2.2. This Guidance aims to balance the potentially competing principles involved in (a) compliance with Data Protection legislation, particularly in relation to special category data; (b) other legal obligations to maintain confidentiality where information is provided in contexts where express or implied duties of confidentiality arise; and (c) the duties of the Collegiate University to look after the vital interests of students (which arise under contract, tort, statutory duty and common law).
- 2.3. Cases where a student is considered to be at Risk of Serious Harm and/or at Risk of causing Serious Harm and yet failing to adequately engage with help available (e.g. for serious mental health problems) while withholding consent to share special category data relating to their health with persons or services best placed to help them are especially difficult but not unusual. This Guidance is drafted predominantly with those cases in mind.

- 2.4. In certain circumstances the Collegiate University may owe obligations to individuals that cannot be discharged unless the institution takes action on information provided in confidence e.g. to protect the vital interests of others or the individual concerned. Such circumstances involve weighing up different interests.
- 2.5. Further detail on the relevant provisions of the Student Privacy Notice and the wider context of Data Protection legislation and Information Commissioner’s Office (ICO) guidance, which underpin this Guidance, is at Appendix C below.

### 3. Collegiate University Context

- 3.1. The University and Colleges have statements about privacy and confidentiality, also for legal reasons. Whilst it is appropriate that there is variation in the details of application, there are strong reasons for the documents to be based on the same principles. This enables similar levels of protection for students across the Collegiate University irrespective of the college of which a student is a member. This Reuben guidance is made available to both students and staff. In appropriate circumstances it may also be helpful to inform parents or guardians of the principles that will be followed with regard to confidentiality.
- 3.2. This Guidance covers both sharing of special category data within the College and situations where such data needs to be shared between the College and other University departments and University services.
- 3.3. A significant amount of sharing of personal data relating to students is already permitted and envisaged between the University departments and the Colleges under both:
  - 3.3.1. the Terms and Conditions of the student’s contract with the University (at <https://www.ox.ac.uk/students/new/contract>) and
  - 3.3.2. The student Privacy Notice (incorporated as part of that contract) at <https://compliance.admin.ox.ac.uk/student-privacy-policy>.

The Student Privacy Notice was updated in 2020 to clarify limited circumstances in which special category data related to health might be shared even if students have not consented to it (i.e. where there is a Risk of Serious Harm), providing the safeguards within the Student Privacy Notice and this Guidance are followed.

- 3.4. Problem cases have arisen where different parts of the Collegiate University each have part of the picture relating to a student’s health and welfare which, if combined, would constitute a Risk of Serious Harm which necessitates immediate action to protect the student or others. This Guidance, and the Student Privacy Notice, were updated to address that issue.
4. [General Principles – Balancing Confidentiality with a Need to Act in Cases of Risk of Serious Harm](#)
- 4.1. Exceptions to the general rule at paragraph 2.1 arise particularly in cases where there is a Risk of Serious Harm. This includes cases where the student lacks capacity<sup>3</sup> to give consent and needs intervention from medical professionals.

<sup>3</sup> Capacity is understood as “the ability to use and understand information to make a decision, and communicate any decision made which may be impaired due to physical reasons, e.g. lack of consciousness or serious mental confusion”.

- 4.2. Whilst sharing information might seem the most helpful response, students are adults and the confidentiality of their data must be maintained, and information not shared without consent save where paragraph 4.1 applies.
- 4.3. Those advising students should consider at the outset of a discussion, and sometimes during discussions, whether it would be helpful to make clear that the content is to be confidential and the extent of the confidentiality which can be afforded to any disclosures by the student or disclosure by any third party.
- 4.4. When discussing confidentiality with students the following should be considered and clarified:
  - 4.4.1. Confidentiality will be respected wherever possible.
  - 4.4.2. Consent will be sought, wherever possible, to any onwards disclosure of information; for example, in order to effect any necessary support or protective measures a member of staff concerned may seek consent to share information within the college or department welfare team, making clear to the student who comprises that team, and how information will be shared.
- 4.5. Those involved in advising students should, where possible, seek the consent of the individual for the onward disclosure of relevant information to those with a clear need to know, and for this consent to be recorded in writing, which includes e-mail.
- 4.6. Where such consent is not forthcoming, the person entrusted with the information should make it clear that in exceptional circumstances, i.e. where there is a Risk of Serious Harm to the student (or others), it may be necessary to disclose the information to others. Guidance can be sought from the University's Director of Student Welfare and Support Services.
- 4.7. Where disclosure of personal data, or special category data related to health, is deemed necessary because there is a Risk of Serious Harm, it is important to ensure that the disclosure is:
  - 4.7.1. Limited to only those recipients who need to know the information in order to be able to decide on the appropriate provision or provide medical, psychological, pastoral or practical assistance to the student or to others at Risk of Serious Harm that is reasonably likely to mitigate the Risk of Serious Harm or its effects;
  - 4.7.2. Adequate to enable reasonable steps to mitigate Risk to be taken;
  - 4.7.3. Limited to that information which is proportionate and necessary to mitigate the Risk of Serious Harm, while maintaining confidentiality of personal data which does not need to be shared for that purpose;
  - 4.7.4. Shared in a way which informs recipient(s) of the confidential nature of the information and ensures, as far as possible, they respect its confidentiality;
  - 4.7.5. Recorded in writing contemporaneously, noting reasons a student or others were deemed at Risk of Serious Harm and why disclosure of special category data was thought necessary. If a decision to disclose is challenged (to the ICO, OIA or a Court) this may be important to show how the Collegiate University weighed conflicting duties regarding confidentiality/Data Protection and protecting vital interests.
- 4.8. If a student discloses that they, or another person, have suffered harm in circumstances where a person under 18 is, or may be, affected, then the Safeguarding duty may require the Collegiate

University to override confidentiality and report the circumstances urgently to police and/or social services. This applies whether the student who makes such a disclosure is an adult or is under 18 themselves. Welfare staff are advised to seek guidance urgently from Safeguarding Leads who are experienced in handling these highly sensitive cases. For more information and contact details see the [Safeguarding webpages](#).

## 5. Seeking Further Advice

- 5.1. Those to whom information has been given in confidence, or who have acquired information which they regard as confidential, may not always be sure whether to disclose information or not. It may be sensible to seek advice from an appropriate person e.g. a senior college or department officer, the college doctor or the University's Student Counselling Service or the Director of Student Welfare Services. Colleges must inform all those involved in student health and welfare about whom to contact in case of need of further advice, also in out of hours emergency situations. This consultation should be done without divulging the name of the student concerned save where there is a Risk of Serious Harm.
- 5.2. Student Peer Supporters operating under the University's Peer Support Programme are also required to share information, where there is concern, and have a separate policy on confidentiality, which is aligned with the key principles of this Guidance.
- 5.3. Where staff are recipients of confidential information that may indicate a Risk of Serious Harm but they have no welfare role within Reuben (e.g. cleaners), concerns must be notified immediately to their line manager who will then report them to the College Welfare Lead.

## 6. Promises of Confidentiality

- 6.1. It is generally not appropriate to give absolute assurances of confidentiality to those who may wish to talk about health and welfare-related matters. See paragraph 4.4 of this guidance for an outline of the appropriate approach to be taken when discussing how health and welfare related information will be dealt with.

## 7. Discussion with College Doctors, College Nurses and Student Welfare and Support Services

- 7.1. It is often helpful for those who are supporting students to talk to college welfare leads, college doctors, or members of the University's Student Counselling Service, Disability Advisory Service, or Sexual Harassment and Violence Support Service about students' difficulties; the individual's consent to do so should be sought.
- 7.2. If consent is not forthcoming, it may still be helpful to seek general advice from the doctor or counsellor without identifying the student concerned. However, in cases where there is a Risk of Serious Harm identification may become necessary (provided the guidance at paragraph 4.7 is followed);
- 7.3. In exceptional circumstances college doctors, college welfare leads and counsellors may wish to speak to the senior members of a college about a student. If the student is not willing to provide consent, confidentiality will be respected unless there are reasons not to

within the relevant professional guidelines or where those concerned reasonably believe there is a Risk of Serious Harm.

- 7.4. The Student Counselling Service's Liaison Scheme, whereby colleges may elect to have a named counsellor with whom they can liaise, is specifically designed so that college members can seek the advice of someone who is familiar with the college context. Reuben welfare staff meet regularly with their Counselling Service liaison to ensure 'best practice' and for such advice.
- 7.5. Mature, part-time, overseas and suspended students may not be registered with the college GP or have easy access to the counselling service. The College asks all students to inform the academic office if they are registered with any practice other than the College GP, and will seek to record these details accordingly..
- 7.6. Where students arrive at University with serious medical conditions (particularly, but not limited to, conditions which affect their mental health e.g. those with histories of self-harm or suicide attempts) or are diagnosed with such conditions while at University, the issue of consent to sharing of information should ideally be discussed with the student at an early stage whenever support (e.g. through the Disability Advice Service) is arranged. During these discussions it may be helpful to clarify the scope of the consent given by the student, i.e. what the student consents to be shared with whom in the collegiate University. Every case will turn on its own facts and the level of disclosure may depend on whether the student's condition at any point is believed to increase the Risk of Serious Harm.

## 8. Contact with Families<sup>4</sup>

- 8.1. In almost all cases it is inappropriate to speak to a student's family against the student's wishes. In such circumstances, contact can only be justified where either:
  - 8.1.1. the student is physically incapacitated (e.g. unconscious due to serious accident); or
  - 8.1.2. the student has been medically assessed as lacking capacity to make the decision; or
  - 8.1.3. where the student is at Risk of Serious Harm, other attempts to mitigate that Risk (e.g. through medical professionals) have failed or are impractical, and the person making the report reasonably considers disclosure to family members is necessary and safe for the student concerned and third parties, as only the family are in a position to ensure the student obtains support to mitigate the Risk of Serious Harm. Such circumstances will be exceptional but can happen, for example, in cases of self-harm or where suicide has been attempted or threatened. They may also arise where a student is creating a Risk of Serious Harm to others. In such cases the Collegiate University cannot delegate responsibility to a student's family. Some students may give non-family members as next of kin depending on their circumstances. It may be appropriate to advise students

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that their next of kin contact does not have to be a family member, such as in cases of domestic abuse

- 8.2. Any decision to contact the family should be made at the highest level (i.e. College President), taking specialist legal advice as necessary, and the student should normally be informed.
- 8.3. If a student's records indicate that they are estranged from their family then contacting that family will (save in the most exceptional cases) be inappropriate. It may be appropriate to contact non-family members which the student has indicated to be a trusted contact.
- 8.4. Where family members or partners of students contact the University or a College the confidentiality of students' special category data should be maintained save where paragraph 4.1 applies. University or college staff may need to inform parents or partners of a student's rights to confidentiality. Where family members raise concerns for a student's welfare it may be appropriate to inform them of channels of support available to all students (e.g. college doctor, welfare support in college, counselling). Staff may need to advise family members that information provided in relation to the student will not normally be acted upon, and that they should encourage the student to disclose this information themselves and seek help. However, in cases where a family member or partner discloses that a student may be at Risk of Serious Harm or pose a Risk of Serious Harm to others the Collegiate University must act on this information, and may need to communicate that it will not be possible to guarantee anonymity to the disclosing party.
- 8.5. Some students give written consent for information to be shared with others (e.g. where parents or partners of students with disabilities are actively involved in their support).

## 9. Students on Professional Courses

- 9.1. Special considerations apply to students on courses leading to qualifications for professions governed by codes of conduct and health intended to protect the public for example, medicine and teaching. Any concerns about the health or behaviour of a student on one of these courses may be discussed with the department concerned, in the first instance without divulging the name of the student. Advice may also be sought from the college doctor or the Head of the Student Counselling Service.
- 9.2. The General Medical Council (GMC) expects medical students to be open and honest about any conditions which might affect their ability to study or practice and to engage readily in any assessment or monitoring. Non-disclosure is likely to be viewed adversely when problems do become apparent. The Associate Director of Pre-clinical Studies [Health & Welfare] is available to support medical students with welfare issues and provide advice. Concerns about fitness to practice should be addressed to the Assistant Registrar in MSD.
- 9.3. It is a mandatory condition of offer for all PGCE students to complete an occupational health assessment and to provide an enhanced Disclosure and Barring Service (DBS) Certificate, and to provide a full timeline of their activities from their secondary school education until the present day. Students are expected to declare, while on course, any mental health concerns: these are recorded and responded to by the department, but not formally declared in the occupational health assessment.

- 9.4. The college, and individual members of its staff may owe duties of disclosure in cases where students on courses governed by professional codes of conduct under paragraph 9.1 are under investigation (e.g. obligations of disclosure to the Medical Sciences Division during an investigation into a medical student under the Fitness to Practise Regulations). Where sensitive personal data of the student is directly relevant to the Fitness to Practise (or other professional) investigation the obligation of disclosure will override the student's right to confidentiality. Any agreement between any part of the University, or a College, and a student to keep sensitive personal data confidential will be invalid if that data is relevant to a medical student's fitness to practise. In such cases that data will remain confidential to the investigator and any Fitness to Practise panel (though that panel may decide to disclose it to the GMC, along with the panel's findings, if relevant). Guidance can be sought from the University Legal Services Office in these cases.

## 10. Student Welfare and Support Services

- 10.1. The Student Counselling Service is an organisational member of the British Association for Counselling and Psychotherapy and abides by its Ethical Framework for Good Practice. Staff of Student Welfare and Support Services (SWSS), including staff working for the Student Sexual Violence and Support Service, Counselling Service and Disability Advisory Service (DAS), will treat students' personal data as confidential and information will only be conveyed to others without permission in exceptional cases where SWSS reasonably believe there is a Risk of Serious Harm and it is necessary to take steps to mitigate that risk.
- 10.2. The Disability Advisory Service (DAS) will share confidential information related to declared disability for the purposes of supporting that student, for instance in the context of putting in place exam arrangements or effecting reasonable adjustments, with the written consent of the student.
- 10.3. The Sexual Harassment and Violence Support Service will treat students' personal data as confidential and information will only be conveyed to others without permission in exceptional cases where SHVSS reasonably believe there is a Risk of Serious Harm, to the student or to others, and it is necessary to take steps to mitigate that risk.

## 11. Chaplains and Other Faith Leaders Employed in a Welfare Capacity

- 11.1. Reuben does not currently employ any faith or spiritual leaders outside of the support it receives through University postholders. College and denominational chaplains, as ministers of religion, operate within strict ethical codes as regards information disclosed to them in confidence. Often chaplains or other faith leaders employed in a welfare capacity have a significant welfare role and therefore like counsellors and doctors, they may very occasionally have to consider whether to divulge information given in confidence, including where there is a Risk of Serious Harm. When functioning as a member of the College welfare team, Chaplains or other faith leaders will abide by their college's rules on confidentiality, and have regard to this University Guidance on Confidentiality in Student Health and Welfare. Where appropriate Chaplains or other faith leaders may need to tell students the understanding of confidentiality within which they work.

## 12. Major Student Health and Welfare Issues

- 12.1. Major behavioural and emotional problems



12.1.1. In the event that a student's behaviour is such that they are considered to pose a risk to staff or students within the collegiate University, the senior member responsible for college welfare should consider whether the vital interests of others are affected. Where there is time to consider action, it is important to seek the confidential advice and help of the college doctor (when matters of safety are of concern). In rare cases where there is a Risk of Serious Harm it will be necessary not only to warn the college GP/nurse but to warn others to safeguard their health and welfare (e.g. students or staff who are at risk of harm from a student's dangerous behaviour, University security staff, College Porters). In such cases the recipients and the information shared, should be limited to that necessary to mitigate the Risk of Serious Harm, in line with paragraph 4.7 above.

12.1.2. If a student is causing concern or disruption but is not considered to pose a risk to other members of the college or department or themselves, and they are unwilling to consult medical professionals, a senior member of a college or department with pastoral experience may well be able to achieve a satisfactory solution, and case conferences can be a useful tool. A senior member may wish to contact the Director of Student Welfare and Support Services or Head of Counselling to discuss possible sources of help.

## 12.2. Risk of self-harm

12.2.1. If it appears that a student is at risk of serious self-harm (e.g. through self-harm or suicidal threats/tendencies or attempts) they should be encouraged to engage with their GP in the first instance, but where such a student is failing to take steps to mitigate the Risk of Serious Harm (including not engaging with health professionals) it is likely to be necessary to communicate special category data to those members of staff who are in a position to provide medical, pastoral or psychological assistance to mitigate that Risk.

12.2.2. In addition, concerns should be reported to a College Welfare Lead/ senior member of the college with pastoral responsibilities. It is often sensible to discuss these concerns also directly with the student. Also, the college doctor or University Counselling Service can be consulted. Even when the doctor or counsellor is unable to comment about a particular case for reasons of confidentiality, it can be useful to discuss general issues. Since self-harming activity can vary in its level of immediate danger, discussion with a professional is important to assess what action is needed. In urgent circumstances where a student is at Risk of Serious Harm a doctor should be consulted and, if necessary, emergency services contacted.

12.2.3. If a student attends the John Radcliffe Hospital following self-harm, or for any other mental health issue, they should be offered an assessment by the Emergency Department Psychiatric Service, or the Psychological Medicine Service if admitted to a medical or surgical ward. This assessment will be shared with the student's GP. Students will be asked whether they consent to information being shared with any other specific individuals in the College (such as Dean College Welfare Lead etc.) and with the University Counselling Service if appropriate. However, there have been instances of (a) students leaving A&E immediately after receiving treatment for their physical wounds but before being assessed by a psychiatrist and (b) refusing consent to sharing of medical information with the other parties above.

## 13. Discharge from Hospital

13.1. Hospitals in the UK are supposed to contact GPs about students with significant medical problems discharged from the emergency department or inpatient wards. In practice there are occasions where such information is not communicated or is delayed. It is the responsibility of hospital staff to ensure

a 'safe' discharge and this may include communication with the college or family to which the patient will be discharged, but this is subject to the patient giving permission to share information. In cases of serious mental illness and/or following incidents of self-harm or suicide attempts, in practice, students often withhold permission to share information, thus increasing their Risk of Serious Harm in future. Where there is a Risk of Serious Harm disclosure of health data about the student - by those engaged in student health and welfare in Colleges or Departments to those concerned with the welfare of the student in the location to which the student is discharged - should be considered.

- 13.2. If the GP is a college doctor, they should be fully aware of the consequences for colleges, and they (or a nurse) are likely to ask the patient to provide permission to inform relevant officers within college. Students who are not registered with a college doctor are at particular risk of sub-optimal communication between their GP and the college welfare team, and/or at risk of incorrect assumptions of what support may be available. It is helpful if those responsible for student welfare have discussed issues and procedures with their college doctor.

#### 14. Discipline and ill Health

- 14.1. The University and colleges have formal procedures for dealing with serious problems arising from ill health which come to light in the course of a disciplinary investigation or otherwise. The college must ensure that any decision to share special category personal data is in accordance with Data Protection legislation and considers this Guidance. Please refer to the [University Fitness to Study procedure](#) (and College procedures) for more information.

#### 15. Disclosure to the Police and Other Law Enforcement Agencies

- 15.1. The police and other law enforcement agencies, such as immigration authorities, may occasionally contact the College in order to request that information be disclosed to them as part of an investigation. In such circumstances, the following considerations should be taken into account:
  - 15.1.1. Is it possible to obtain the consent of the relevant individual to the disclosure?
  - 15.1.2. Whether disclosure is requested under the Data Protection Act for the prevention or detection of crime or apprehension or prosecution of offenders and whether seeking an individual's consent will prejudice the inquiry. Please note, however, that this provision does not compel disclosure and decisions about whether or not to disclose information should be considered carefully. Factors such as the seriousness of the offence will be relevant. If it is decided that a degree of disclosure is appropriate this should be limited to the minimum required. Any such requests made to the University should be referred to the Information Compliance Team ([data.protection@admin.ox.ac.uk](mailto:data.protection@admin.ox.ac.uk)) for processing.
  - 15.1.3. Whether the College will require the police to obtain a court order for disclosure.
- 15.2. If Reuben staff are unsure what to do in these circumstances, they should contact the University's Legal Services Office or Information Compliance Team for advice. The college may later also wish to inform the Conference of Colleges Legal Panel after issues about contact with the police and other law enforcement agencies have arisen so that best practice, and any lessons learned, can be shared.

## 16. Serious Crime

- 16.1 Victims of serious crime can seek advice from the [University Safety Office](#), in person or remotely if out of residence, or approach the police directly. Survivors of rape or sexual violence can speak to trained first responders, including the University's Sexual Harassment and Violence Support Service, which can provide further details about confidential referral routes. Additional information, including about third party providers of advice can be found on the webpages of the [University's Sexual Harassment and Violence Support Service](#).
- 16.2 All information concerning sexual assault and sexual violence should be treated in confidence, and information should only be shared with the consent of the individual and on a need-to-know basis. Sharing of information with consent will be limited to staff in order for support to be put in place, and the purpose of sharing should be explained to the individual. This support may include making arrangements to limit contact between the parties concerned or (depending on the reporting student's wishes) to assist a student to report an incident to the Police or for the purposes of a disciplinary investigation (whether through the University Proctors or by the College, depending on the context and circumstances of the complaint). In such cases advice can be sought from the Director of Student Welfare and Support Service. Staff may be obliged to provide evidence in court proceedings arising from an allegation of sexual assault or sexual violence.
- 16.3 There may be circumstances in which confidentiality cannot be maintained, e.g. where there is a risk of serious harm to the individual (e.g. failure to seek suitable medical support) or others. In such cases the university's duty of care must be considered. Decisions on sharing information without consent must be made at a senior level (i.e. College President), seeking specialist legal advice as appropriate.

## 17. Dealing with the Media

- 17.1 It is important that all members of staff of the Collegiate University should be careful about speaking to the media and this is particularly so when there is a risk that confidential or special category data might be inadvertently disclosed. The college and the University have policies about who should respond to enquiries and the [University News and Information Office](#) is always able to give advice. In cases of student death the Student Tragedy Guidance should be followed.