BREACH OF CONFIDENTIALITY POLICY FOR ASSESSMENTS

1. Purpose

The purpose of this policy is to provide a mechanism through which any breach of confidentiality in any form may be investigated and if proven penalised. As such this policy shall apply whether the qualification is professional, academic or any combination of the two.

2. Introduction

Students of nursing, midwifery, health and social care, applied health research and public health learn in classroom and clinical settings as well as other appropriate locations. It is inevitable that the assignments that students write will sometimes require them to draw on the experiences they have gained on placements or within work settings. In drawing on these experiences however, health and social care professionals and students have a duty to maintain confidentiality. It is important that details are not disclosed that could lead to the identification of particular individuals, families/significant others, the student or places as this would constitute a breach of confidentiality.

2.1 Why is it important to maintain confidentiality?

As a student working towards achieving either an initial professional qualification, a post-registration qualification or a postgraduate award you may come into contact with or be holding information about patients, service users, colleagues, staff and others which is private and sensitive in nature. This information must not be disclosed or given to others without prior express consent having been obtained. In the UK, the protection of confidential information and privacy is protected by the Data Protection Act and the Human Rights Act, together with common law. Data protection rules cover manual as well as computerised information and give every citizen personal rights to privacy.

2.2 What is a breach of confidentiality?

It is a breach of confidentiality to disclose any information about a patient, service user, colleague, staff or any other person or place that could in principle enable them to be identified. Academic supervisors should not be named on work. It is also a breach of confidentiality to disclose information that has been given in confidence without prior express permission having been obtained.

2.3 Which assignments does this policy apply to?

The breach of confidentiality policy applies to all written and oral presentations (eg poster presentations, vivas and OSCEs) and supplementary appendices included with assignments. Although students are advised that these principles should be adhered to in closed examinations breaches will not be requested to be removed from closed examinations scripts.
Exception to the rule
Portfolios which are not anonymised or recorded clinical sessions may include information regarding supervisors/colleagues and place of work but not service user/patient identifiers.

2.4 How can I refer to patients and service users in my assignments?

It is never justified to disclose the names and addresses of patients, service users or. It is also unacceptable to give indirect information such as the name of a ward, department or service that they are receiving care from that could lead to them being identified. Where it is necessary to refer to others a pseudonym or fictitious name should be used. Terms such as ‘large hospital trust’, ‘care home’ or ‘GPs surgery’ could be used to denote the appropriate place or context of care.

It is advisable to acknowledge at the start of assignments that names and details have been changed in order to maintain confidentiality, referring to the NMC Guidance for Nursing and Midwifery Students or other appropriate professional codes or guidance such as PSRB, HCPC.

Exception to the rule
Portfolios which are not anonymised or recorded clinical sessions may include information regarding supervisors/colleagues and place of work but not service user/patient identifiers.

2.5 How can I refer to colleagues or members of staff in my written assignments?

Members of staff and colleagues should not be referred to by name or grade. Details of their role should also be withheld if disclosure might make it possible to identify the individual. For example, it is possible that only a very small number of people undertake a highly specialised role such as the head of a profession or the director of a centre. To mention the role would count as a breach of confidentiality because it could lead to the identification of the person who holds it. If a role were much more widely held (such as a staff grade etc) then to mention it would not constitute a breach of confidentiality.

Acknowledgements in dissertations should not name practice or academic staff.
Please refer to section 2.3 for assignment exception.

2.6 What about information already in the public domain?

It is not normally a breach of confidentiality for a student to refer to information about health or social services that is already in the public domain. Thus, students are at liberty to discuss local service provision in their assignments, if it is relevant, or to discuss local policy. However, it is expected that students will provide references to show that the information they are disclosing is publicly available by citing reports, documents and newspaper articles or similar according to the appropriate citation method indicated in the Student Handbook.

If citing the name of the trust or organisation has the potential to identify people or places then the trust or organisation should be identified on a ‘local’ trust or organisation. For example, within the text cite ‘local trust policy, 2012’ and within the reference list ‘Local Trust Policy (2012): Induction of Labour’.
2.7 How do I obtain prior express consent?

Express consent is not required if the information does not directly identify an individual and could not therefore reasonably be used to determine identity. It is good practice, however, to obtain express consent where the assignment takes the form of a case study or a care study, which is substantially based on the experience of an individual or discrete client group.

On asking to use personal information about an individual or client group, the student should explain the nature and scope of the assignment to the appropriate person. The student should also assure them that all references to names, dates, times and places will be changed to ensure confidentiality is maintained. The individual or client group should be given the opportunity to read the finished article if they wish to.

Students should indicate at the start of the assignment that if prior express consent was required that it was obtained from the appropriate person to use personal information contained within.

Recommended sources of information on record keeping and confidentiality.

It is advisable to remain updated with the advice, guidelines and regulations published by professional bodies. The following publications are useful sources of information:


www.nmc-uk.org
www.nmc-uk.org/Nurses-and-midwives/Advice-by-topic/A/Advice/Confidentiality/
www.gscc.org.uk
www.gmc-uk.org/guidance/news_consultation/confidentiality_guidance.asp
www.dh.gov.uk

3. Breach of confidentiality

The inclusion of material/literature/letters/reports etc that would lead to the identification of the following constitutes a breach of confidentiality:

- a patient/client/service user
- the family or carers
- a member of staff who could be linked/traced back to an individual or a specific situation
- clinical area

Please refer to section 2.3 for assignment exception.
4 Procedure for investigation and determination of allegations of breach of confidentiality

All allegations of conduct covered in this policy shall be investigated in accordance with the principles of natural justice using the following specific procedures:

- All allegations shall be made in writing by the internal maker to the appropriate Chair, Board of Examiners (BoE) (ie undergraduate or taught postgraduate) and shall be supported by as much evidence as can be provided by those with firsthand knowledge of the alleged breach of confidentiality.

- On receipt of the allegation and any supporting evidence the BoE Chair may make or recommend further enquiries as they deem appropriate, and thereafter shall determine whether there is evidence of a breach of confidentiality.

5. Penalties for breach of confidentiality

5.1 First offence

The assignment is marked and the result released to the student in the usual manner; except that the student is additionally informed in writing that the mark awarded is conditional upon the removal of identifying references to people and/or places, and that he/she must meet with his/her personal supervisor to discuss his/her understanding of this policy.

The student re-presents the assignment, within two weeks of the date on the letter informing him/her of the breach of confidentiality. Note it is not acceptable to use correction fluid (eg Tippex) to white out breaches or to simply black out breaches with a marker pen before re-presenting assignments. If using correction fluid or a maker pen to remove a breach from a document the document must be photocopied prior to re-presentation to anonymise the assignment correctly. Electronic submissions should have the breach removed prior to resubmitting electronically.

The internal marker reviews the re-presented script and confirms if the identifying references have been removed. If they have been correctly removed the original mark is formally awarded. If the student has not taken out all identifying references a mark of zero is awarded.

5.2 Second offence

In the event of a second case or further cases of breach of confidentiality by a student, the assessment tainted by the breach of confidentiality will be awarded a mark of zero. This will also result in referral to Fitness to Practise Committee/Graduate School Board.
Flowchart of Decision Making Process to Determine Breach of Confidentiality

Student signs declaration on the Academic Face Sheet and submits with assignment or makes an electronic declaration as part of the electronic submission process

1st Marker marks work – breach of confidentiality alleged

2nd Marker/Moderator confirms mark and alleged breach of confidentiality

1st Marker informs BoE Chair in writing on form (click to open form)

Chair confirms no breach of confidentiality

Work returned to Student Assessment Office to process according to departmental guidelines

Chair confirms breach of confidentiality

1st Offence – Student informed of breach and requirement to remove offending section(s) within 2 weeks

2nd Offence – Automatic failure at that attempt – student referred to FTP / GSB

If this is in relation to a ‘first’ attempt, a re-assessment may be available (assessment rules permitting)