

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. As such this policy shall apply whether the qualification is professional, academic or any combination of the two.

2. Introduction

Students on a health related programme learn in the 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. However, in drawing on these experiences, there is a need to maintain confidentiality, and it is important that details are not disclosed that could lead to the identification of particular individuals, families/significant others, the student or organizations.

2.1 Why is it important to maintain confidentiality?

Student on a health related programme 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 consent having been obtained. In the UK, the protection of confidential information and privacy is protected by the General Data Protection Regulation (GDPR) and the Human Rights Act. GDPR rules cover paper documentation as well as computerised information and gives every citizen personal rights to privacy.

2.2 What is a breach of confidentiality?

It is a breach of confidentiality to disclose, verbally or in writing, any information about a patient, service user, colleague, staff member or any other person or place that could in principle enable them to be identified. Academic supervisors should not be named on work with the exception of PhD students. 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.

Exceptions 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.**
- **PhD supervisors can be named**

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 colleagues, staff or others. 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.

- Terms such as 'large hospital trust', 'care home' or 'GPs surgery' could be used to denote the

appropriate place or context of care.

- Where it is necessary to refer to others a pseudonym or fictitious name should be used.
- Patient confidentiality – eg removing patient identifiable evidence ie blood results or clinical letter.

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 Code (2015) for Nursing and Midwifery and other appropriate professional codes or guidance from Professional, Statutory and Regulatory Bodies (PSRBs).

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 their role would count as a breach of confidentiality because it could lead to the identification of the person. 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.

Please refer to section 2.3 for exceptions to rule.

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 as 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 consent?*

Prior 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 prior 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 do so.

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

2.8 *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:

Department of Health. *The Caldicott Guardian manual 2010*. London: DH

Department of Health (2010) *Confidentiality: NHS Code of Practice: Supplementary Guidance*.

London: Department of Health

General Data Protection Regulation (GDPR) (2018)

Health and Care Professions Council (HCPC) (2016) *Standards of conduct, performance and ethics*. London

Health and Care Professions Council (2016) Standards of Conduct, Performance and Ethics. [Online] Available at <https://www.hcpc-uk.org/aboutregistration/standards/standardsofconductperformanceandethics/>

Health and Care Professions Council (2017) [Online]. Available at: <https://www.hcpc-uk.org/assets/documents/100023F1GuidanceonconfidentialityFINAL.pdf>

Nursing and Midwifery Council (2015) *The Code*. Professional standards of practice and behavior for nurses and midwives London: Nursing and Midwifery Council. [Online] Available at: <https://www.nmc.org.uk/globalassets/sitedocuments/nmc-publications/nmc-code.pdf>

Nursing and Midwifery Council. www.nmc-uk.org

www.dh.gov.uk

<https://www.gov.uk/government/publications/guide-to-the-general-data-protection-regulation>

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 exceptions to the rule.

4. Procedure for investigation and determination of allegations of breach of confidentiality

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

- All allegations shall be made in writing by the marker to the appropriate Chair, Board of Examiners (ie undergraduate or taught postgraduate) via the Student Assessment Office. Allegations 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 Chair, Board of Examiners 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 Breach

The assignment is marked and the result released to the student in the usual manner, except that the student is additionally informed in writing of the breach of confidentiality and asked to speak with their supervisor regarding the BoC policy within 10 working days.

5.2 Second Breach

The assignment is marked and the result released to the student in the usual manner, except that the mark awarded is conditional upon the removal of identifying references to people and/or places, and that the student must contact their supervisor to discuss their understanding of the policy.

The student is required to re-present the assignment, within **20 working days** of the date on the letter informing them of the breach of confidentiality. Note that it is not acceptable to use correction fluid to white out breaches or to black out breaches with a marker pen before representing assignments. If using correction fluid or a marker 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 supervisor should review the re-presented script and confirm whether the identifying references have been removed. If they have been correctly removed the original mark is formally awarded.

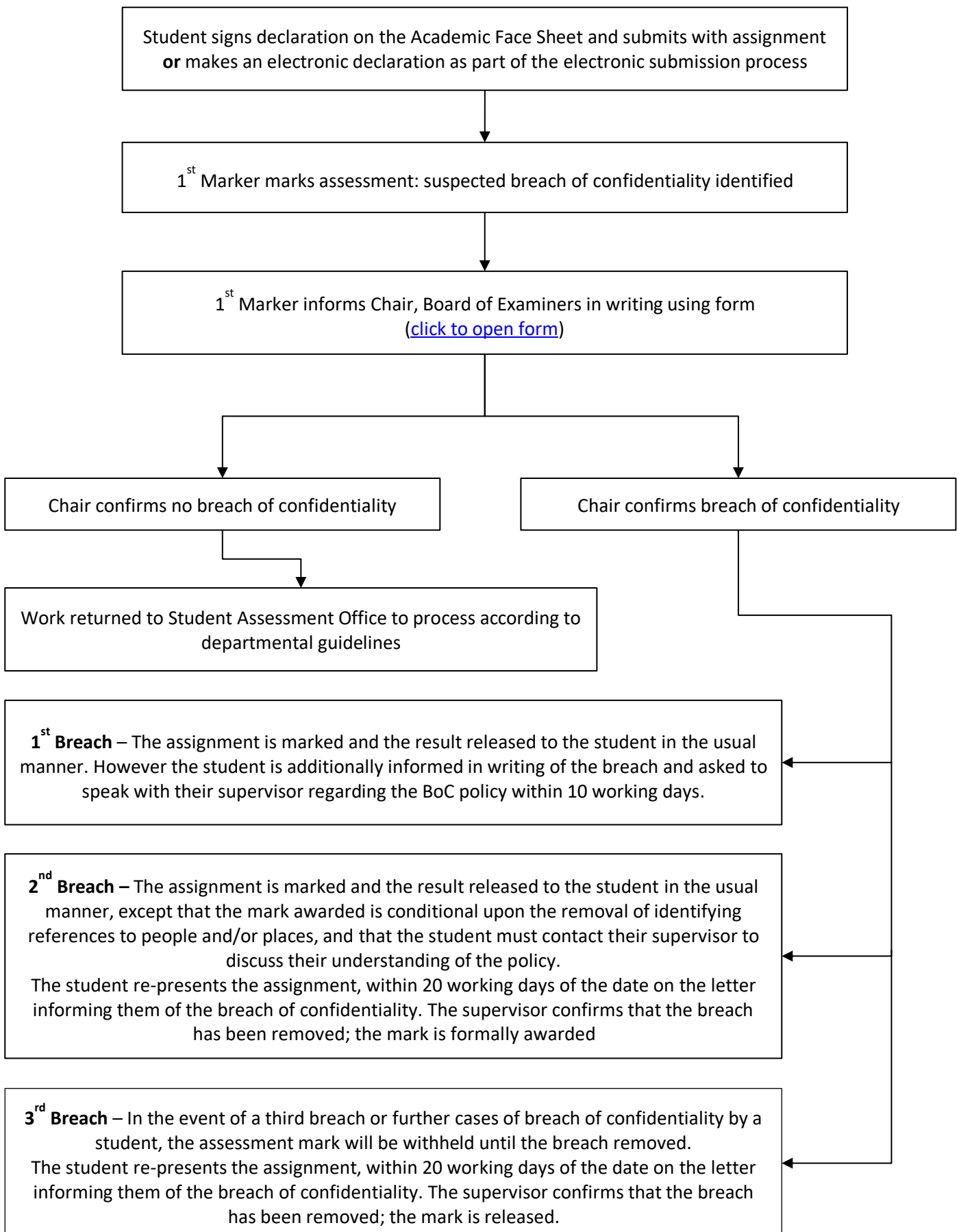
5.3 *Third Breach*

In the event of a third breach or further cases of breach of confidentiality by a student, the assessment mark will be withheld until the breach is removed.

The student is required to re-present the assignment, within **20 working days** of the date on the letter informing them of the breach of confidentiality. Note that it is not acceptable to use correction fluid to white out breaches or to black out breaches with a marker pen before representing assignments. If using correction fluid or a marker 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 supervisor should review the re-presented script and confirm whether the identifying references have been removed. If they have been correctly removed, the mark is released.

Decision Making Process to Determine Breach of Confidentiality



Breach of Confidentiality Notification and Removal Form

Marker Guidance – Procedure for confirming a breach:

- First marker marks assessment and has identified a breach of confidentiality
- First marker completes Section A of this form and sends form to Student Assessment Office
- Chair of Board of Examiners reviews this form and the assessment script
- Chair indicates final decision regarding breach in Section B
- This completed form is then returned electronically with the script to the Student Assessment Office by the marking deadline

Section A			
Student Exam Number		Module Code	
Module Title			
Brief details of the breach of confidentiality identified <i>(completed by marker)</i>			
Print Name <i>(in capitals)</i>			
Date			

Section B			
Breach confirmed: <input type="checkbox"/> YES <input type="checkbox"/> NO	Comments: 		
Chair of Board of Examiners	Print Name <i>(in capitals)</i>	Signature	Date

Student Guidance – Procedure for removal of breach:

- **First breach** – The student should contact their supervisor to make contact regarding the confirmed breach of confidentiality within their assessment and discuss the Breach of Confidentiality Policy within **10 working days**.
 - The assessment containing the breach(es) should be reviewed and discussed by the supervisor with the student
 - The supervisor should review student’s understanding of the Breach of Confidentiality Policy
 - The student should clarify with the supervisor any areas of the policy that they may still find unclear
 - This form should be completed, signed and submitted to the Student Assessment Office by the supervisor no later than 4.30pm by the deadline stated in the Student Assessment Office breach letter
- **Second breach** – The assessment will be marked and the result released to the student in the usual manner, except that the mark awarded is conditional upon the removal of identifying references to people and/or places, and that the student must meet with their supervisor to discuss their understanding of the policy.
 - The student re-presents the assignment, within **20 working days** of the date on the letter informing them of the breach of confidentiality.
 - The student should bring the updated assessment with the breach(es) removed to the meeting
 - The assessment containing the breach(es) should be reviewed and discussed by the supervisor with the student
 - The supervisor should review student’s understanding of the Breach of Confidentiality Policy
 - The student should clarify with the supervisor any areas of the policy that he/she may still find unclear
 - This form should be completed, signed and submitted to the Student Assessment Office by the supervisor.
 - The student should resubmit the assessment no later than 4.30pm by the deadline stated in the Student Assessment Office breach letter
- **Third breach** – In the event of a third breach or further cases of breach of confidentiality by a student, the assessment mark will be withheld until the breach removed, **within 20 working days**.
 - The assessment containing the breach(es) should be reviewed and discussed by the supervisor with the student
 - The student should bring the updated assessment with the breach(es) removed to the meeting
 - The supervisor should review student’s understanding of the Breach of Confidentiality Policy
 - This form should be completed, signed and submitted to the Student Assessment Office by the supervisor.
 - The student should resubmit the assessment no later than 4.30pm by the deadline stated in the Student Assessment Office breach letter

Notes following the meeting between the supervisor and student regarding clarification of the breach of confidentiality policy.			
Personal Supervisor’s Signature		Date	
I confirm that I have discussed the Breach of Confidentiality Policy with my supervisor and am aware of how to implement this correctly and the consequences of breaching confidentiality in the future.			
Student’s Signature		Date	