Leicester Medical School

Guidance on Confidentiality and Data Protection

Background

The General Medical Council (GMC) has published the following guidance on confidentiality and medical students should be familiar with this guidance:

http://www.gmc-uk.org/guidance/ethical_guidance/confidentiality_contents.asp
http://www.gmc-uk.org/guidance/ethical_guidance/confidentiality_supplementary_info.asp

This guidance deals primarily with patient confidentiality. There is no single GMC document that addresses the issue of confidentiality between medical students and their Medical School; however, relevant confidentiality issues are discussed in:

1. ‘Tomorrow’s Doctors’.
2. ‘Medical Students: professional values and fitness to practise’.
3. ‘Supporting medical students with mental health conditions’.
4. ‘Gateways to the profession’.

These documents can be accessed via the following link:

http://www.gmc-uk.org/education/undergraduate/information_for_uk_students.asp

The following paragraphs are quoted verbatim from the GMC document ‘Medical Students: professional values and fitness to practise’. Medical students should note that the Medical School policies on the issues discussed in paragraphs 125 to 128 below are exactly as defined by the GMC in those paragraphs.

Paragraph 125  Medical schools should make it clear in their public documents and websites that they may pass personal information to other organisations, including the GMC, other medical schools or postgraduate deaneries/local education and training boards (LETBs), for example, if a student receives a warning or a sanction. Medical schools must have clear guidelines on the disclosure of information about cases where a student's fitness to practise has raised concern. The Information Commissioner’s Office (ICO) has given this advice: ‘The Data Protection Act 1998 does not represent a complete barrier to disclosure, rather it would allow it where it is necessary and proportionate and where certain conditions have been met. Where there is a real issue about a student’s fitness to practise and where this represents a risk to patients or members of the public then disclosure would seem to be justified’.

Paragraph 126  The ICO has also indicated that when fitness to practise concerns are raised ‘a balancing decision would need to be made between the rights of the individual student and the likelihood of a real risk to the public’.

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Paragraph 127    This will have implications for the responsibilities of, for example, occupational health practitioners, teachers, trainers, personal tutors and students.

Paragraph 128    Further ICO advice has indicated that ‘all students should be informed that, in addition to any other purposes for which their personal data may be used, information may also be shared with medical and educational supervisors etc in circumstances where it is clear that there would be a likelihood of real risk to the public if that information was not disclosed’. This should be supported by clear, agreed procedures for sharing information between medical schools and other organisations.

The University of Leicester has published a Data Protection Code of Practice that provides guidance on how the demands of the Data Protection Act 1998 can be met. It is expected that all members of staff will comply with this Code of Practice. The Code of Practice and other Data Protection information is available at the following link:

http://www2.le.ac.uk/offices/ias/dp/data-protection

Purpose of this Guidance

The purpose of this guidance is to provide guidelines on confidentiality issues that arise between a Medical School and its students and in particular, to explain how Leicester Medical School will apply the principles and practices required by the Data Protection Act and the GMC.

Definition of confidential

The word confidential is used in this document to refer to information that is restricted to particular individuals or groups of individuals. This definition of confidentiality requires therefore that the Medical School classifies the information it holds on students and clearly defines who has access to that information.

Definition of “breach of confidentiality”

The GMC uses the phrase “breach of confidentiality” in its documentation e.g.

http://www.gmc-uk.org/education/undergraduate/23289.asp see paragraph 54.

Leicester University and its Medical School consider that protecting your confidential information is an important part of your right to privacy. However, this protection available to you will be balanced against the disclosure of information that is in the public interest, and as allowed for in the Data protection Act in relation to the regulatory requirements as also indicated in the GMC guidance.
Classification of information

The Medical School has classified the information held on medical students into eight categories. These are:

1. **Student Metrics Information**
   This is the basic information that is held by the University on all students. This includes students’ application forms, assessment results, award of prizes and illness absence – see Appendix. In the case of medical students there may also be information about professionalism or patient safety concerns. Information in this category will only be that which allows the Medical School to administer the course and monitor the progress and progression of a student throughout the course. Personal information that falls outside this remit will be classified as sensitive student information (see below).

2. **Sensitive Student Information**
   The word sensitive is used as defined by the Data Protection Act. Examples would be personal information that the Medical School receives from students themselves or third parties such as Health Care Professionals, parents, the police, a court. The Medical School also includes information regarding the financial status of a student in this category. If the student has not been copied into this information then that student will be sent a copy at the time it is received by the Medical School.

3. **Pastoral Support Student Information**
   In order to provide continuity of support the Pastoral Support Unit is required by the GMC to keep a record of the discussions that it has had with students.

4. **Mitigating Circumstances Student Information**
   This information is that provided by students who complete a mitigating circumstances form.

5. **Professionalism Concerns Group (PCG) Information**
   This is information that the PCG needs to support students who may be behaving unprofessionally.

6. **Fitness to Practise Student Information**
   This is any information about a student that forms part of a Fitness to Practise investigation.

7. **Appeals and complaints**
   This is any information that forms part of a complaint by a student or part of an appeal against an academic outcome.
8. **Assessment Information**

This includes email from students regarding exams, information on students for extra time eligibility, exam papers, exam results, information on students who have repeated years, decile information, names of students who have or have not received mitigation, information about the foundation year situational judgement test and information about the Prescribing Assessment Exam.

**Data Storage**

1. **Student Metrics Information**
   This information is held in paper format in student files that are kept in a locked cabinet in the School Office. The door to this office is locked when the office is not staffed. The staff in the Office are required to identify any individual who requests access to the student files and may ask the reason for such access. If there is uncertainty whether a particular individual should access a student file, Mrs Beverley Ireland will be consulted.

2. **Sensitive Student Information**
   This information will be kept in a password protected folder on the X drive.

3. **Pastoral Support Student Information**
   This information will be kept in a password protected folder on the X drive.

4. **Mitigating Circumstances Student Information**
   This information will be kept in a password protected folder on the X drive. If files are being prepared for a Committee meeting these will be kept in a locked filing cabinet.

5. **Professionalism Concerns Group Information**
   This information will be kept in a password protected folder on the X drive. If files are being prepared for a Committee meeting these will be kept in a locked filing cabinet.

6. **Fitness to Practise Student Information**
   This information will be kept in a password protected folder on the X drive. If files are being prepared for a Panel meeting these will be kept in a locked filing cabinet.

7. **Appeals and complaints**
   This information is held in paper format in a locked filing cabinet within an office that is locked when not staffed. Student complaint information is kept in the Dean’s office, Academic Appeals information is kept in the Academic Appeals Administrator’s office or the Dean’s office.
8. **Assessment Information**

The majority of this information is held electronically in a password protected folder on the X drive. Assessment papers are held in a locked filing cabinet.

**Who has access to the various categories of information?**

1. **Student Metrics Information**
   a) The individual student subject to any legal or confidentiality constraints.
   b) Members of the University who need to access this information in order to administer the course. Any individual accessing this information must be able, if challenged, to justify their reasons for such access.

2. **Sensitive Student Information**
   a) The individual student subject to any legal or confidentiality constraints.
   b) A limited number of staff in the Medical School who needs access to this information in order to support a student. The individuals are the Head of Medical and Social Care Education, The Director of Undergraduate Medical Education, The Lead of the Student and Staff Support Unit, The Phase 1 Lead, the Phase 2 Lead, The Medical School Records Officer (Mrs Beverley Ireland) and the members of the Pastoral Support Unit. Any individual accessing this information must be able, if challenged, to justify their reasons for such access.

3. **Pastoral Support Student Information**
   a) The individual student subject to any legal or confidentiality constraints.
   b) The records of the Pastoral Support Unit will **only** be accessible to the members of the Student Support Unit.
   c) The Head of Medical and Social Care Education, The Director of Undergraduate Medical Education or the Lead of the Student and Staff Support Unit **cannot** access the Pastoral Support Unit records but as part of a process to support students may ask a member of the Pastoral Support Unit the following questions:
      i. Has a particular student sought pastoral support and if so when?
      ii. Has the student followed the advice of the Pastoral Support Unit?

4. **Mitigating circumstances information**
   a) The individual student subject to any legal or confidentiality constraints.
   b) The Mitigating Circumstances Panel and the secretary servicing that Panel
   c) The Pastoral Support Unit
   d) The Head of Medical and Social Care Education, the Director of Undergraduate Medical Education and the Lead of the Student and Staff Support Unit
   e) The secretary to and members of an Appeals Panel, if required.

5. **Professionalism Concerns Group Information**

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a) The individual student subject to any legal or confidentiality constraints.
b) Members of the Professionalism Concerns Group
c) The Head of Medical and Social Care Education, The Lead of the Student and Staff Support Unit, the members of the Professionalism remediation team and the members of the Pastoral Support Unit.

6. **Fitness to Practise information**
   a) The student under investigation will have access to all of the information regarding allegations against them, unless such information:
      i. Places other individuals at personal risk;
      ii. Breaks the confidentiality of another student.
   b) The Secretary of The Fitness to Practise Committee
c) The Investigating Officer
d) Members of a Fitness to Practise Panel and members of the Fitness to Practise Committee
e) Witnesses called to a Fitness to Practice Panel

7. **Appeals and complaints**
   a) The individual student subject to any legal or confidentiality constraints.
   b) The Dean of the College, The Head of Medical and Social Care Education, The Director of Undergraduate Medical Education, The Director of Administration, The Head of Student Programmes Administration, The Medical School Academic Appeals Administrator
c) Members of Academic Appeal Panels
d) Members of the Senate Student Discipline Committee (Stage 2 Appeals).

8. **Assessment Information**
   a) The individual student will have access to their own assessment results
   b) The Assessment Team, Panels and Board of Examiners
c) Members of Academic staff.

**Information Sharing**
The Medical School is required to share information for specific reasons with the GMC, the Local Education and Training Board (the ‘Foundation Programme’) and the Disclosure Barring Service (DBS).

1. **Information Assurance Services**
   All requests by a student to view the information held on them (Data Subject Access Request, made under the Data Protection Act 1998) are handled by the University’s Information Assurance Services (IAS). When such a request is made, the Department provides the information to IAS in the first instance.
2. **University Solicitor**
   All information on a student may be shared with the University Solicitor, if the Department or University require legal advice or support.

   The OIA is an independent body set up to review student complaints against Higher Education Institutions in England and Wales. In order to be able to investigate and decide on complaints, it will request copies of the records and documentation held by the institution concerned.

4. **GMC**
   Prior to the start of the final year, the following information is provided to the GMC to allow it to begin the process of pre-Registration that will allow medical students when they graduate to take up a position in the Foundation Programme:

   - Student id Number, First Name, Other Names, Last Name, Date of Birth, Gender
   - Institutional email address, Mobile Number (if available).

   The Medical School may pass personal information relating to warnings and sanctions to the GMC, where a student’s fitness to practise has raised concern. The student will be informed if this takes place.

5. **Foundation Programme**
   A separate document setting out the information required from the Medical School concerning students entering on to the Foundation Programme can be found here:

   [Medical Schools Council TOI Guidance](#)

6. **Medical Schools Council**
   The MSC Assessment Alliance is collecting anonymised examination information to allow it to review the performance of medical schools.

   *Prescribing skills assessment and Situational Judgement Test*
   Limited information to allow the relevant students to be identified and for the assessment to be administered.

   *Medical Schools Council’s Excluded Students Database*

   Medical Schools throughout the United Kingdom have agreed to share fitness to practise information regarding students who may have been excluded on fitness to practise grounds. Information can only be shared with signatories to the Protocol.
7. **DBS**

The University has a legal duty to report to the DBS any person who has:

- Harmed or poses a risk of harm to a child or vulnerable adult;
- Satisfied the harm test; or
- Received a caution or conviction for a relevant offence.

Further information on DBS and the duty to refer can be found here:

[Disclosure and Barring Service Checks](#)

8. **UKCAT**

The UKCAT Data Privacy Statement which explains that progression data will be collected from medical schools can be found here: [http://www.ukcat.ac.uk/App_Media/uploads/pdf/Data%20Privacy%20Statement%20April%202014.pdf](http://www.ukcat.ac.uk/App_Media/uploads/pdf/Data%20Privacy%20Statement%20April%202014.pdf)

**Data retention**

The Medical School has a published Data Retention Policy, which has been approved by the University’s Information Assurance Team and data will be held and disposed of in accordance with that Policy.

[Records retention schedule](#)

Pastoral Support records will be retained for the duration of the Programme and then deleted.

**How can a student access the information held about them?**

Under the terms of the Data Protection Act 1998 a student is entitled to ask the University for a copy of the personal data that it holds about them. The information, which they are entitled to receive, includes a description of the purposes for which it is used, a description of the recipients to whom it is disclosed and a description of the sources of the information. This entitlement is known as the “Right of Access to Personal Data”. The Data Subject Access Request Form is available at the following link: [http://www2.le.ac.uk/offices/ias/resources/UoL_dpfoi_request_pack.pdf](http://www2.le.ac.uk/offices/ias/resources/UoL_dpfoi_request_pack.pdf)

**Under what circumstances could confidentiality be broken?**

• ‘A student’s confidentiality should only be breached to protect the individual student or others from risk of serious harm’. In the context of a Medical School environment, ‘others’ would most likely to be fellow students or patients.

• ‘Where people providing support feel that it might be necessary to breach confidentiality, they should discuss this with the student before taking any action. A student’s right to confidentiality should be broken only in very rare circumstances.’

The Medical School will apply the GMC guidelines as stated above. Although every situation is unique, the scenarios below provide students with examples where confidentiality may or may not be breached and the Medical School may have to be informed:

1. A student attending the Pastoral Support Unit states that he/she intends to commit suicide. The student has all the appropriate support services in place and has sought appropriate treatment and counselling. In this situation there is no requirement to break confidentiality.

2. A student attending the Pastoral Support Unit states that he/she intends to commit suicide. The student has all the appropriate support services in place in Leicester but intends to return home to Brighton to revise for a re-sit examination. The Support services in Brighton (GP, Counselling) are not aware of the student’s suicidal tendencies and the Support Unit feel that in order to protect the student they must be informed. If the student does not want the Support services in Brighton to be informed, then the Pastoral Support Unit could either suggest that the student does not take the re-sit examination or if the student insists on taking the re-sit examination then the Support services in Brighton must be made aware of the student’s suicidal tendencies. In this circumstance confidentiality may have to be breached in order to protect the student.

3. A Student attending the Pastoral Support Unit states that he/she intends to physically assault a fellow student. In this circumstance confidentiality may have to be breached in order to protect the fellow student.

4. A medical student reveals to the Pastoral Support Unit that they have cheated in an assessment or falsified a signature for an assessment during a clinical Block. Because this lack of probity (cheating or falsifying a signature) renders that assessment invalid, patient safety may be at risk and therefore confidentiality may have to be breached.

5. A student reveals to the Pastoral Support Unit that he/she has been drinking heavily. The student is adamant that it is not affecting his/her study or work. The student has sought appropriate support, including Alcoholics Anonymous. The Pastoral Support Unit notes that there have not been any attendance or professionalism concerns raised about the student and decides therefore the student should be referred to Occupational Health and
that there is no need to breach confidentiality. This approach is in line with an example given by the GMC involving a qualified doctor.

http://www.gmc-uk.org/guidance/ethical_guidance/confidentiality_alcohol_concerns.asp

6. A student reveals to the Pastoral Support Unit that he/she has been drinking heavily. The student is adamant that it is not affecting his/her study or work. The student has not sought any support prior to this and the Pastoral Support Unit notes that there have been significant attendance and professionalism concerns. The Pastoral Support Unit suggests that in view of the attendance and professionalism concerns that the student should attend Occupational Health. The Student attends Occupational Health who provides a treatment plan to the Pastoral Support Unit and student. The student follows the plan and there are no further attendance or professionalism concerns. There is no need to breach confidentiality in this circumstance.

7. A student reveals to the Pastoral Support Unit that he/she has been drinking heavily. The student is adamant that it is not affecting his/her study or work. The student has not sought any support prior to this and the Pastoral Support Unit notes that there have been significant attendance and professionalism concerns. The Pastoral Support Unit suggests that in view of the attendance and professionalism concerns that the student should seek appropriate support and should attend Occupational Health. The Student refuses to attend Occupational Health and continues to have significant attendance and Professionalism problems. In this circumstance it may be necessary to breach confidentiality.

8. A student reveals to the Pastoral Support Unit that he/she has been drinking heavily. The student is adamant that it is not affecting his/her study or work. The student has not sought any support prior to this and the Pastoral Support Unit notes that there have been significant attendance and professionalism concerns. The Pastoral Support Unit suggests that in view of the attendance and professionalism concerns that the student should attend Occupational Health. The Student attends Occupational Health who provides a treatment plan to the Pastoral Support Unit and student. However, the student does not comply with the treatment plan and there continue to be significant attendance and Professionalism concerns. In this circumstance it may be necessary to breach confidentiality.

If a student’s confidentiality has to be breached who should be told?

In the uncommon circumstance that the Pastoral Support Unit or Occupational Health need to breach a student’s confidentiality, the following should be told:

1. The student concerned will normally be told.
2. The Head of the Department of Medical and Social Care or the Director of Undergraduate Medical Education.

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Who in the Medical School/University is responsible for information security and compliance with the Data Protection Act?

The Medical School Data Protection Coordinator is Mrs Beverley Ireland. The University Data Protection Officer is Mr Colin Atkinson.

If a member of staff is uncertain whether to breach a student’s confidentiality, who should they consult?

They should consult Mr Colin Atkinson, the University Data Protection Officer.

If a student feels that their confidentiality has been breached outside the policies detailed in this document, what should the student do?

The student should write to the Head of Department explaining their concerns/complaint. The Head of Department would normally arrange to meet with the student to discuss their concerns. If the Head of Department agrees that the student’s confidentiality has been breached outside the policies detailed in this document then The University Data Protection officer will be informed. If the Head of Department disagrees with the student and the student remains concerned the student should contact Mr Colin Atkinson, the University’s Data Protection Officer.
APPENDIX

Examples of Information held in the Student Metric Files

Application information (UCAS form, correspondence, proof of qualifications, sponsorship details)
Student agreement
Registration forms
Absence forms
Letters regarding results/prizes/need to resit or repeat a year of study
General Correspondence
Copies of forms for overseas students’ regarding their status/fees (usually for their sponsor)
End of year transcripts if requested
Tutor reports
Suspension of studies paperwork
Intercalated BSc paperwork
Letters warning students about their behaviour/attendance/professionalism concerns
Extracts from minutes of bodies such as the Professionalism Concerns Group
Email confirming the outcome of any application for Mitigating Circumstances
Marker indicating if a student Appealed at any stage against a decision or termination and the decision letter regarding any such Appeal