



## Scarborough College

### MEDICAL - CONFIDENTIALITY POLICY

This is a whole College policy, including EYFS and the boarding community.

**To protect the pupil at all times and to give the staff involved clear and unambiguous guidance as to their legal and professional roles and to ensure good practice throughout the school which is understood by pupils, parents/guardians and staff.**

- The Safety, wellbeing and protection of our pupils are the paramount consideration in all decisions staff at this school make about confidentiality. The appropriate sharing of information between the medical centre and school staff is an essential element in ensuring pupil wellbeing and safety.
- It is an essential part of the ethos of Scarborough College that trust is established to enable pupils, staff and parents/guardians to seek help both within or outside of the Medical Centre and minimise the number of situations when personal information is shared to ensure pupils, staff and parents/guardians are supported and are kept safe.
- Pupils, parents/guardians and staff need to know the boundaries of confidentiality in order to feel safe and comfortable in discussing personal issues and concerns including sex and relationships.
- The school's attitude to confidentiality is open and easily understood and everyone should be able to trust the boundaries of confidentiality operating within the school.
- Issues concerning personal information, including sex and relationships, and other personal matters can arise at any time.
- Everyone within the school community needs to know that no one can offer absolute confidentiality.

#### **The Definition of Confidentiality**

The dictionary definition of confidential is "something" which is spoken or given in confidence: private, entrusted with another's secret affairs.

When speaking confidentially to someone the confider has the belief that the confidant will not discuss the content of the conversation with another. The confider is asking for the content of the conversation to be kept a secret. Anyone offering absolute confidentiality to someone else would be offering to keep the content of his or her conversation completely secret and discuss it with no one.

The general rule is that staff should make clear that there are limits to confidentiality, at the beginning of the conversation.

### **Different Levels of Confidentiality are Appropriate for Different Circumstances**

- In the classroom in the course of a lesson given by a member of teaching staff or an outside visitor, including healthcare professionals. Careful thought needs to be given on the content of the lesson, setting the climate and establishing ground rules to ensure confidential disclosures are not made. It should be made clear to young learners that it is not the time or the place to disclose confidential, personal information. When a health professional is contributing to a PSHE in a classroom setting they will be working to the same boundaries as a teacher.
- One to one disclosure to members of school staff including voluntary staff. It is essential all members of staff know the limits of the confidentiality that they can offer to both pupils and parents/guardians. All staff at this school encourages pupils to discuss difficult issues with their parents/guardians and vice versa. However, the needs of the pupil are paramount and school staff will not automatically share information about a pupil with his/her parents/guardians unless it is considered to be in their best interests.

### **Start Your Conversation with the Following Advice**

“You will be supported with any problems you may share with me but if, in my opinion, you have been or are at risk from yourself (self-harm) or from others or are involved in anything illegal we may have to share this information with people who can help.”

(Note: That is, when concerns for a pupil come to the attention of staff, for example, through observation of behaviour or injuries or disclosure, however insignificant this might appear to be, the member of staff should discuss this with Mrs Helen Devine Costa who is the designated child protection person as soon as is practically possible. More serious concerns must be reported immediately to ensure that any intervention necessary to protect the pupil is assessed as early as possible. Please see the Child Protection Policy and Procedure Booklet.

### **Disclosures to a counsellor, School Nurse or Healthcare Professional operating in a confidential service in school.**

The School Nurse can give confidential medical advice to pupils provided they are competent to do so and follow the Fraser guidelines (guidelines for doctors and other healthcare professionals on giving medical advice to the under 16s).

School Nurses are skilled in discussing issues, possible actions with young people and always have in mind the need to encourage pupils to discuss issues with their parents/guardians. However, the needs of the pupil are paramount and the School Nurse will not insist that the pupil's parents/guardians are informed about any advice or treatment they give. On a “need to know basis” they will share with appropriate staff in school any details which would enable better “in school support”.

## **Contraceptive Advice and Pregnancy**

The Department of Health has issued guidance (July 2004) which clarifies and confirms that healthcare professionals owe young people under 16 the same duty of care and confidentiality as older pupils. It sets out principles of good practice in providing contraception and sexual health advice to the under 16s. The duty of care and confidentiality applies to all under 16s.

Whether a pupil is competent to treatment or is in serious danger is judged by the healthcare professional on the circumstances of each individual case, not solely on their age. However, the younger they are the greater the concern that they may be being abused or exploited. The guidance makes it clear that the School Nurse must make time to explore whether there may be coercion or abuse. Cases of grave concern would be referred through child protection procedures.

## **The Legal Position for School Staff**

All school staff should not promise confidentiality. Pupils do not have the right to expect that incidents will not be reported to their parents/guardians and may not, in the absence of an explicit promise, assume that information conveyed outside that context is private. No member of this school's staff can or should give such a promise.

The safety, well-being and protection of the child is a paramount consideration in all decisions staff at this school make about confidentiality.

School staff are not obliged to break confidentiality except where child protection is or maybe an issue, however, we believe it is important staff are able to share their concerns about pupils with colleagues in a professional and supportive way, on a need to know basis, to ensure staff receive the guidance and support they need and the pupils safety and wellbeing is maintained. School staff should discuss such concerns with their designated child protection person.

## **Teachers Counsellor and Health Professionals**

Professional judgement is required by a teacher, counsellor or School Nurse in considering whether he or she should indicate to a pupil that the pupil could make a disclosure in confidence and whether such confidence could then be maintained having heard the information. In exercising their professional judgement the teacher, counsellor or School Nurse must consider the best interests of the pupil including the need to both ensure trust to provide safeguards for our pupils and possible child protection issues.

All teachers at Scarborough College receive Child protection training level 1 as part of their induction to the school and are expected to follow the child protection policy and procedures.

## **Counsellors and Health Professionals**

We offer pupils the support of a listening service at the Medical Centre, which is staffed by the School Nurses, there is also an onsite Counsellor who comes in twice a week. These services are confidential between the counsellor and the pupil. No information is shared with the school staff except as defined by the school's Child Protection Policy, and guidance from the child protection law. It is essential to maintain trust needed for these services to meet the needs of our pupils.

### **Visitors and Non-Teaching Staff**

We expect all non-teaching staff, including voluntary staff to report any disclosures by pupils or parent/guardians, of a concerning personal nature to the designated Child Protection Officer as soon as possible after disclosure and in an appropriate setting, so that others cannot overhear. This is to ensure the safety, protection and well-being of all our pupils and staff. The designated Child Protection Officer will decide what, if any, further action needs to be taken, both to ensure the pupil gets the help and support they need and that the member of staff also gets the support they need.

### **Parents/Guardians**

We believe that it is essential to work in partnership with parents/guardians and we endeavour to keep parents/guardians abreast of their child's progress at school, including any concerns about their behaviour. However we also do need to maintain a balance so that our pupils can share concerns and ask for help when they need it. Where a pupil does discuss a difficult personal matter with staff they will be encouraged to discuss the matter with their parents/guardians themselves.

### **Complex Cases**

Where there are areas of doubt sharing of information, seek a consultation with your local Children's safeguarding services.

### **Links to other school policies and procedures:**

This policy is to be used in conjunction with other school policies:

- Child Protection Policy.
- Drug and Solvent Abuse policy.
- Alcohol policy.
- Anti- Bullying policy.
- Behaviour policy.

### **Statement of ground rules to be used in lessons:**

We should adopt ground rules to ensure a safe environment for teaching in particular in PSHE. This reduces anxiety to pupil, staff and minimises unconsidered, unintended personal disclosures.

At the beginning of each PSHE lesson, pupils are reminded of the ground rules by the teacher or outside visitor

- We will not ask each other or the teacher any personal questions.
- We will respect each other and not laugh, tease or hurt others.
- We will not say things we want to keep confidential.
- We can pass or opt out of something if it makes us feel uncomfortable.
- If we do find out things about other learners, which are personal and private, we will not talk about it outside the lesson.
- If we are worried about someone else's safety we will tell a teacher.

## **When Confidentiality Should be Broken and the Procedures for Doing This**

See the Child Protection Policy and Procedure Booklet.

Where does this not apply and you are still concerned and unsure of whether the information should be passed on or other action should be taken you should speak to your Designated Safeguarding Person

If the Head Teacher issues instructions that she/he should be kept informed, all staff must comply. There is always a good reason for this which you might not know.

### **The principles that we follow are that in all cases we:**

- Ensure the time and place are appropriate, when they are not we reassure the pupil that we understand they need to discuss something very important and that it warrants time, space and privacy.
- See the pupil normally (and in cases of neglect, or child abuse) before the end of the school day. More serious concerns must be reported immediately to ensure that any intervention necessary to protect the child is accessed as early as possible.
- Tell the pupil we cannot guarantee confidentiality if we think they will hurt themselves, or someone else or they tell someone else is hurting them and others.
- Not to interrogate the pupil or ask leading questions.
- We will not put the pupil in the position of having to repeat distressing matters to several people.
- Inform the pupil first before any confidential information is shared, with the reason for this.
- Encourage the pupil, whenever possible to confide in his/her own parents/guardians.

### **Support for Staff**

Staff may have support needs themselves in dealing with some of the personal issues of pupils. We would prefer for you to ask for help rather than make a poor decision because you do not have all the facts or the necessary training, or taking the worries about pupil's home with you. There are many agencies we can refer pupils to who need this additional support which we have and procedures to ensure this happens. We all work together as part of a team to support our pupils and asking for help is a way we ensure that Scarborough College is a happy, caring and safe learning environment.

## Summary of Relevant Legislation

**The Crime and Disorder Act 1998 S.115:** provides a legal power and duty to share information for the purposes of the Act, i.e. crime prevention. This will apply to the majority of domestic violence cases.

**Data Protection Act 1988:** includes new provision for the regulation of the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information.

**The Human Rights act 1998:** precludes information sharing if it may interfere with the rights which include respect for private and family life, home and correspondence, unless it is in accordance with the law and necessary in a democratic society in the interests of national security, public safety or for the prevention of disorder or crime, the protection of health or morals or the protection of rights of freedom of others.

**The Common Law of Confidence:** requires that information may not lawfully be disclosed when given in certain circumstances of confidentiality except when an exception applies, such as it being in the “overriding public interest”.

**Consent:** should be obtained from relevant individuals as a matter of good practice, and where appropriate and possible, explicit consent should be sought and freely given by the data subject.

**Sharing data without consent:** data should not be shared with consent, however the home office gives guidance on conditions when information which can be shared other than with consent:-

- In matters of life and death or to prevent serious harm to the individual.
- For the administration of justice.
- For public/statutory functions.
- For the prevention and detection of crime, or the apprehension or prosecution of other offenders.
- For the purpose of child protection. If consent has not been given to share information or there is no disclosure required by a court order, information may still be shared if the public interest in safeguarding the child’s welfare overrides the need to keep the information confidential.

**Data Protection:** Designated Officers must follow the principles set out in the Data Protection Act when processing personal information or requesting information from other agencies. The Data Protection principles state that personal information must be:-

- Processed lawfully and fairly.
- Obtained for a lawful process.
- Relevant and not excessive in relation to the purpose for which it is processed.
- Accurate and kept up to date.
- Retained no longer than is necessary for the required purpose.
- Processed in accordance with the rights data subjects.
- Stored securely to prevent unauthorised access.