



## Lode Heath School

<b>Name of Policy</b>	<b>Confidentiality Policy</b>
<b>Lead</b>	<b>Mr Nicholas Burke</b>
<b>Governor Committee</b>	<b>BSII Committee</b>
<b>Date Last Reviewed</b>	<b>February 2023</b>
<b>Review Frequency</b>	<b>Annual</b>
<b>Annual Review Date</b>	<b>February 2024</b>

The Governors and Staff of Lode Heath School are committed to providing a fully accessible environment which values and includes all students, staff, parents and visitors regardless of their education, physical, sensory, social, spiritual, emotional or cultural needs.

The Staff, Governors and Students are committed to the safeguarding and welfare of students and staff.

To meet the needs of our school community all our Policies, including this one, can be made available in different formats and are also available electronically to enable you to use your computers accessibility options. All reasonable requests will be considered. Please apply to the Headteacher at Lode Heath School stating your requirements.

# **POLICY ON CONFIDENTIALITY**

## **Aim**

The overarching purpose of this policy is to clarify for students, parents, governors, support agencies and staff the position taken by Lode Heath School towards the sharing of information given by students in confidence to members of staff.

## **Objectives**

- To clarify the School's understanding of confidentiality.
- To clarify the means by which students will know that assurances of absolute confidentiality cannot be given by any member of staff.
- To enable students and staff to recognise that students do, in many circumstances, have the right to confidentiality.
- To state the principles upon which staff should make a judgement about confidentiality and information sharing.
- To make clear the relationship between Lode Heath's approach to the issue of confidentiality and information sharing and our aspirations to safeguard and serve the interests of all students whilst fulfilling legal responsibilities.
- To state the protocol which will be followed in the event of a disclosure of sexual activity involving students below 13 years old and between 13 and 16 years old.

## **What is confidential information?**

At Lode Heath School this is defined as : 'Information of some sensitivity, which is not already lawfully in the public domain or readily available from another public source and which has been shared in a relationship where the person giving the information expected and/or understood that it would not be shared with others'.

## **Confidentiality and the ethos of Lode Heath School**

As a School committed to the safeguarding and wellbeing of all its students, Lode Heath believes that students are entitled to a level of confidentiality which engenders trust between students and staff. If this is not present, then students will be reluctant to disclose or seek help when they are experiencing difficulties. However, whilst holding to this principle Lode Heath recognises that absolute assurances of confidentiality cannot be given and both staff and students must accept that information which suggests a pupil's safety and/or wellbeing are at risk, will be passed on to a third party on a need to know basis to enable their needs to be addressed.

A statement of the School's position regarding confidentiality and information sharing is found within pupil organisers. It is further highlighted in assemblies and by staff to students when assurances are sought. (This forms part of staff training for induction and annual Child Protection reminders).

## **Pupil Entitlement to Confidentiality**

The School recognises the validity of the U.N. Convention on the Rights of the Child which states in Article 16 that the child has the right for “privacy” and in Article 12 to “be heard, express opinions and be involved in decision making”. These principles underpin the students’ right to expect that the professionals in whose care they find themselves will recognise and respect this entitlement. In the same spirit, students must recognise that staff are contractually bound to pass on any information that suggests a pupil’s safety and/or wellbeing are at risk. In practice for staff this means:

- not gossiping
- not rushing to inform other staff, parents/carers or agencies against the child’s wishes
- seeking the child’s permission to pass on the information other than in exceptional circumstances

## **The Legal Framework for Staff**

Whilst there is no specific law governing confidentiality and children and, therefore, no legal duty for staff to pass on information, staff are contractually bound to pass on to the DMS any disclosed information about the physical, emotional or sexual abuse of students.

Under the common law duty of confidentiality any personal information given or received in confidence for one purpose may not be used for a different purpose or passed to anyone else without the consent of the provider. The exception to this principle is information necessary to safeguard the child. If a member of staff makes the decision to share information disclosed to them he/she should be able to justify doing this.

## **Guidelines for staff on making the decision to maintain or break confidentiality**

The general principle on which to make this decision is found in the Solihull MBC’s recommended guidance for confidentiality in schools and is as follows:

“If a pupil is clearly competent to make their own decisions, breaking confidentiality against their expressed wish should only be considered where failure to do so places the pupil, or other people, at risk of immediate and significant harm”.

If a member of staff decides to maintain confidentiality and offer advice to the pupil they must be mindful of the following guidelines which formed advice given to medical professionals after the Gillick ruling of 1985 and which are recognised as having a wider application to those working with young people.

Advice can be offered in confidence to young people under 16 providing the following are met:

- The young person understands the advice being given.
- The young person cannot be persuaded to inform their parents and seek their support.
- The young person is likely to continue with risky behaviours.

- Their physical and mental health are likely to suffer unless they receive services or advice.
- It is in the young person's interests to receive services or advice without parental consent.

**N.B. The disclosure of sexual activity**

This should be passed to the Designated Safeguarding Lead who in the case of students under the age of 13 report this to Children's Social Services. In cases of consensual sex between the ages of 13 and 16 the decision to report will involve a professional judgement based on the principle of "the best interests of the child". In the case of a student who discloses having sex with someone over the age of 16 this should be referred to DART.

**Summative Statement**

In summary, this policy states that students are entitled to a level of confidentiality which engenders a healthy atmosphere of trust between staff and students. The first duty of the staff is to ensure the safety and wellbeing of their students and their actions and decisions will be taken on the basis of "the best interests of the child". Other considerations will, for the sake of the child, be secondary.