

Balancing duty of confidentiality with the duty of care

Guidance for Dignity at Work leads and other key roles

The wellbeing of our employees is very important to us. During our work and conversations with each other, a colleague may say something or behave out of character which may cause concern that someone is at risk to themselves or others.

This note provides guidance on when our duty to maintain confidentiality may be overridden to avoid potential harm. It is likely this guidance is most relevant to Dignity at Work (DAW) leads, Mental Health First Aiders (MHFA), and colleagues with responsibility for people issues. However, the principles apply to all employees and will help ensure we do all we can to protect the wellbeing of colleagues.

A key part of the DAW and MHFA roles, as well as the pastoral element of performance coach and assignment manager roles, is to signpost colleagues to appropriate guidance and advice which will help objectively set out the options the individual may wish to consider to address issues they have raised. Taking an objective viewpoint and maintaining confidentiality are clearly key elements in ensuring colleagues have trust in these roles.

However, there may be occasions where it is in the individual's best interests, or to protect others from harm, or where there are statutory requirements to inform relevant third parties of the confidential conversation or concerns that have been raised so that appropriate protective measures can be taken. In most cases, the individual may consent for information to be shared, but where no consent has been given, it may still be appropriate to override confidentiality. These occasions may be rare, but disclosure should be considered where:

- An individual gives you concern they are actively considering self-harm, including suicide
- An individual gives you concern they are actively considering harming others, for example family members (particularly children) or colleagues
- An individual's behaviour or the information they have disclosed suggests there are significant risks to their own safety or the safety of others, for example a danger to life
- An individual discloses illegal activity or there is a strong suspicion a criminal act has been carried out or is being planned. In addition, all NAO employees have a personal legal obligation to ensure that they comply with rules on disclosure under money laundering legislation as well as in relation to the Professional and Ethical standards of their own Professional Bodies

These examples are not exhaustive. Each situation will rely heavily on judgement as to the potential seriousness of the harm caused should disclosure of a confidential conversation not be made. In balancing your consideration, you may wish to seek the advice of your group's HR Business Partner or the Head of Business Partnering, Attendance and Well-being, Polly von der

Becke, who can discuss the circumstances of the case with you whilst maintaining the individual's anonymity.

Our [Employee Assistance Programme](#) is also available 24/7 365 days a year if HR is unavailable or it is outside of working hours.

Once a decision has been made to disclose information gained through a confidential conversation, please inform both the Head of Business Partnering, Attendance and Well-being and the HR Director without delay so that appropriate measures can be put in place.