

Confidentiality requirements in complaint-handling policies

Guidance for higher education providers



It is a provider's choice to apply confidentiality requirements to complaint or misconduct processes. However, excessive confidentiality requirements can prevent students from seeking support or cause them to feel silenced or disempowered about the experience that led them to complain.

This guidance explains how higher education providers can apply confidentiality requirements appropriately and proportionately, if they choose to use them.

Clearly set out confidentiality requirements in policies and procedures

- Confidentiality requirements should be clear, succinct and preferably in one easily accessed document, rather than fragmented across several documents.
- Policies and procedures should describe what, when, and how confidentiality requirements apply, to avoid ambiguity about a student's obligations and rights.
- Confidentiality should apply to the complaint process only, not to the experience of a student. Policies and procedures should explain that a student can talk about their experience, provided they do not reveal details about an active complaint or misconduct process.

Release students from all confidentiality obligations at the end of the complaint or misconduct process

- There should be a clear end point to complaint and misconduct processes. Official policies that apply confidentiality requirements should specify when these requirements stop at the end of a complaint or misconduct process.
- Maintaining choice and control is vital to supporting students' recovery from a traumatic event, particularly students who have experienced gender-based violence. Releasing students from confidentiality obligations restores student agency and supports their ownership of their own story.

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Ensure exceptions are included in relevant policies so students know where they can seek support

- If poorly applied, confidentiality requirements can isolate students and leave them questioning whether seeking support will land them in trouble. This can worsen a student's distress.
- Policies need to clearly explain how confidentiality applies, and to articulate exceptions. At a minimum these exceptions should include options for students to access psychosocial support, health professional support, legal advice, and external recourse, such as:
 - Family and friends
 - Health professionals (both internal and external to the provider)
 - University lecturers, tutors, or other trusted advisors
 - Police and legal supports
 - The National Student Ombudsman and other government services.

Provide students with guidance in plain English that is easily understood and accessible

- Long technical documents may not be easily understood by students and can be intimidating, especially during times of stress.
- Providers should make it simple for students to access, read and understand relevant policies and procedures before making a formal complaint.
- Plain English principles should be used to describe confidentiality requirements to students throughout the complaint process.
- Outcome letters for a complaint or misconduct process should clearly state the date the confidentiality requirements end, and that the student is released from all confidentiality requirements and can discuss what happened during the process with others.

More information

The NSO's report "Can I talk about this? The use of confidentiality requirements in university complaint-handling" discusses confidentiality requirements and their impact in greater detail and is available [here](#).