

F3. MEETING CLIENTS' NEEDS

3.1 CONFIDENTIALITY POLICY & PROCEDURE AND PRIVACY STATEMENT

DEFINITIONS

The Students' Union at UWE

The University of the West of England Students' Union.

Advice Service

The service provided to clients by Student Advisers and the Advice Service Manager. The Students' Union Representation Manager and Chief Executive Officer may be included in the Advice Service team's decisions regarding breaching confidentiality.

Clients

All prospective, current and graduated students of UWE and other users of the Students' Union Advice Service.

Data Subject (client): the individual that is subject of any personal data, e.g. the client accessing The Advice Service

Data Processor (Students' Union Advice Service): responsible for processing personal data on behalf of a controller

Data Controller (Students' Union CEO): determines the purposes and means of processing personal data

Personal data: any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Consent: any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.

Special category data: data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation.

Further definitions can be found [here](#).

STATEMENT

“The Students' Union at UWE is committed to providing a confidential advice service to its clients. The Students' Union at UWE believes that principles of confidentiality must be integrated throughout all aspects of services and management. The Students' Union Advice Service clients deserve the right to confidentiality in order to protect their interests and to maintain the integrity of the Students' Union Advice Service.”

CONFIDENTIALITY

By confidentiality the Students' Union at UWE means that: no information (except in circumstances as defined in the '*breaches of confidentiality*' below) regarding a client shall be given either directly or indirectly to any third party external to the Students' Union Advice Service without that client's prior written consent.

The Students' Union at UWE recognises that all of its members should be able to access the Students' Union Advice Service in confidence. In addition, the Students' Union at UWE recognises that no person external to the service should be made aware that a client has accessed the Advice Service without that client's prior expressed consent.

In order to ensure that no information pertaining to a client or case is given out inadvertently, the advice service team will discuss clients or cases exclusively within the Students' Union Advice Centre / Students' Union at UWE Site Office. All other staff who may come into contact with clients (such as Site Office student staff; student volunteers; reception staff) will be required to sign a confidentiality contract.

Breaches of confidentiality

In the case of an emergency, for example when an advisor is threatened with violence, that advisor has the right to take immediate action and call UWE Security.

On rare occasions the Advice Service may need to breach a student's confidentiality. There are three exceptions when confidentiality may be breached, whereby there is a legal duty on individual advisers to report information given to them:

1. Terrorism - under the Terrorism Act 2000, it is an offence for a person holding information about acts of terrorism to fail without reasonable excuse to disclose that information.
2. Drugs and money laundering - the Drug Trafficking Act 1994 makes it a criminal offence to fail to report to the police suspicion or knowledge of drug money laundering gained during the course of client contact. The agency will normally be required to disclose this information.

3. Illegal acts against minors (Child Abuse).

In addition to the above, there is a 'duty of care' responsibility upon the Advice Service. The advisers will be required to act accordingly when clients are deemed, by the advisers, to be at risk of harming themselves or others. In these instances the Adviser, or Manager, will liaise with UWE's Wellbeing Service for guidance.

There will also be a breach of confidentiality when there is a conflict of interest (see Conflict of Interest policy E1).

Students will be informed that the information they have provided will result in the Advice Service Manager having to breach confidentiality and subsequently disclose information to a third party. This information will be clearly recorded within the case file.

The Advice Service Manager (or Representation Manager and Chief Executive Officer in the absence of the Advice Centre Manager) must be consulted if a breach of confidentiality is necessary under the above.

Conflict of Interest

The Students' Union Advice Service defines a conflict of interest as:

- clients who are in conflict with the Students' Union at UWE;
- clients making a complaint against a member of the Advice Service team;
- two opposing parties in a dispute;
- clients presenting information which is believed by the adviser to be false.

(See Conflict of Interest Policy – E1 - for further information)

Fraud

When an adviser has identified that a client has made a fraudulent claim (e.g. welfare benefits, Hardship Fund) the client will be advised that the Students' Union Advice Service will no longer assist in that particular area. The client will also be advised that the Advice Service will not disclose their particulars to any external party.

PRIVACY STATEMENT

The General Data Protection Regulation (GDPR) is the first major change to data protection legislation since the Data Protection Act 1998. GDPR comes in to force on 25th May 2018 and gives data subjects more control over their data. To comply with this legislative change The Advice Service has reviewed what data we process, how we process it and why.

Processing data

The Advice Service has a legitimate interest ([Article 6 GDPR](#)) in processing client data, including enquiry/case details. As such consent isn't required when processing client's data as part of their enquiry/case, unless special category data is being collected which isn't integral to the client case, but can inform the Advice Service Manager of any trends. It is necessary for the Advice Service to protect the interests of the client as well as the interests of the service. Clients have the right to complain if the advice they received was incorrect or unsatisfactory. Without storing client data, including case details, the client may find it difficult to seek redress. The Advice Service requires client data in the event of a complaint so we can check if the advice provided was accurate. Data is also required to identify trends and make service improvements.

Consent

Clients accessing the Advice Service in person will be required to complete a paper case sheet. Clients have the option to give their permission for the Advice Service to:

- contact them
- allow their file to be audited for the Advice Quality Service
- send them an email feedback survey
- contact a third party relevant to their case

If consent is not given then the Advice Service must act accordingly. If a client did not give their consent for the Advice Service to process their personal data then we could not complete a case sheet/advicepro record and this might limit the service we can provide to them – i.e. there would be no record of the client contact, no record of the advice given, no record of actions agreed. This would be relayed to the client.

Consent not given for contact, audit and survey will be recorded within the 'consent' tick boxes under 'client details' on AdvicePro and also as a 'sticky' within a client's case notes.

Clients can withdraw their consent at any time by advising the Advice Service Manager.

Client Rights

The GDPR sets out your rights as an individual, and we strive to uphold and protect your rights in balance with our legitimate interest in providing support for you. Your rights are as follows:

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object

8. Rights in relation to automated decision making and profiling.

You can see detailed explanations on each of these rights [here](#).

Expressed consent to contact third parties.

Where the Students' Union Advice Service has agreed with a client that a third party will be contacted, the client will be asked to sign a form of authority prior to third party contact being made. All signed forms of authority will be saved as an attachment within the client's case notes on Advice Pro. Contact with a third party cannot be made until a client has signed the form of authority.

Before an Advice Service team member contacts a client, they will check that the client has signed the case sheet giving permission for the Advice Service to do so (or that the relevant consent box on advicepro has been ticked if consent was gained by another method). If a client has emailed the Advice Service, left a voicemail or posted a query on Facebook, it is assumed that they have consented to be contacted by the Advice Service in response to their query. When contacting a client by phone, the Advice Service team member will not make reference to the reason for the call and will not identify them self as an Advice Service team member until they are confident that they are speaking to the client.

Consent not given for contact, audit and survey will be recorded within the 'consent' tick boxes under 'client details' on AdvicePro and also as a 'sticky' within a client's case notes.

Case security

It is the responsibility of the Students' Union Advice Service team to ensure that all paper case sheets are held securely and locked away when the Advice Centre / Site Office is unattended.

All pcs will be 'locked' when left unattended.

On request, and once their identity has been confirmed, the client will be given the opportunity to view their case notes in the Advice Centre office or site office – in the presence of an Advice Service member of staff. The information within their case file (electronic or paper) can also be copied and emailed/sent to the client, where requested. In addition, clients will be given a copy of their paper case sheet, and its contents. The student will be required to complete the Students' Union's Data Protection Access Request form (available at <https://www.thestudentsunion.co.uk/data/>).

Case sheets are accessed on a daily basis only by members of the Advice Service team. Every two years the Advice Service is audited by the Advice Quality Standard, and some files may be reviewed by the auditor. Only files where students have given consent to audit, will be reviewed.

Case sheets (electronic and paper) will be kept for six years; after this time they will be shredded/deleted.

Breach notification

Any breaches of data by the Advice Service should be reported to the Students' Union's CEO, who will inform the Information Commissioner's Office (ICO) within 72 hours. We are also responsible for informing the client/s affected.

The Advice Service Manager is responsible for ensuring the Primary Contact details held by AdvicePro are up-to-date to ensure there is no delay in reporting a data breach. If a member of the Advice Service team is informed of a data breach involving AdvicePro then they are to alert AdvicePro immediately via dataprotection@acm-solutions.co.uk.

Statistical recording

The Students' Union Advice Centre is committed to anonymous statistical recording to enable monitoring of take-up of service and to identify policy issues that arise.

Ensuring confidentiality policy & procedure and privacy notice effectiveness

All Students' Union Advice Service team members will have access to the confidentiality policy and privacy notice. New advisers will be introduced to the policies and procedures via induction and training.

The Students' Union Advice Service team will monitor these policies and procedures to ensure that statutory and legal requirements are met.

APPENDIX 1 – Privacy Statement (on display in the Advice Centre, interview rooms and site offices)

PRIVACY STATEMENT

The General Data Protection Regulation (GDPR) is the first major change to data protection legislation since the Data Protection Act 1998. GDPR comes in to force on 25th May 2018 and gives data subjects more control over their data. To comply with this legislative change The Advice Service has reviewed what data we process, how we process it and why.

What?

The data we collect from you can include: name, student number, address, date of birth, gender, ethnicity, nationality, course, disability, contact details, fee status.

How?

All of your data is entered onto a paper case sheet initially and then transferred onto our electronic case recording system (AdvicePro).

Case sheets are kept in our filing cabinet.

The details of all contact with you (phone, email, appointment) and any information about your case is entered onto AdvicePro.

Your details on AdvicePro are only accessible, via individual passwords, by the Advice Service team.

Why?

The most important reason we keep your data is to help you with your case/enquiry; from the GDPR legislation the legal basis we have to collect your data is called a legitimate interest. This means that we feel you would reasonably expect us to process your data when you approach us for support so that we can:

- record information to identify you
- record the issue you seek advice on
- record the advice we give
- record the agreed actions
- record details of future contact
- save relevant documents

In addition, it is necessary for the Advice Service to protect the interests of you, the student, as well as the interests of the service. You have the right to complain if the advice you received was incorrect or unsatisfactory. Without storing your data, including case details, you may find it difficult to seek redress. The Advice Service requires your data in the event of a complaint so we can check if the advice provided was accurate.

Your data is also required to identify trends and make service improvements.

Destruction?

All hard copy paper case files are shredded by a member of the Advice Service team after 6 years, from the end of the academic year during which the case was closed.

All electronic data, including case files, are automatically archived by AdvicePro on a monthly basis six years after the case/enquiry was closed. All identifying data is removed and marked as archived. All cases and enquiries are removed along with any case notes and these are marked as archived.

Request?

You have the right to access your Advice Service file – please ask a member of the team for information about how to do this, or visit thestudentsunion.co.uk/advice

Consent?

We require your consent to:

- Contact you
- Allow your case file to be audited
- Email you a feedback survey
- Contact a third party relevant to your case (form of authority)

If you do not give your consent to any of the above then please let us know.

You have a right to withdraw your consent at any time.

We do not require your consent to pass on relevant information about you when there is a legal duty on an adviser to breach confidentiality. Instances include:

- Terrorism
- Drugs and/or money laundering
- Child abuse
- Serious risk of harm to self/others

If you have any questions about this Privacy Statement please speak to an adviser.

Our full *Confidentiality Policy and Privacy Statement* can be found on our website thestudentsunion.co.uk/advice

Review: September 2018