

# **E-ACT POLICY**

## **PARKWOOD ACADEMY**

### **CONFIDENTIALITY**

<b>Date agreed by Governors</b>	
<b>Date of review</b>	
<b>Responsible officer</b>	<b>Principal / Business Director</b>

## PRINCIPLES

- Parkwood Academy aims to create a community with a positive atmosphere in which young people learn to value themselves, each other and the world in which they live.
- Every student has a right to be treated with respect and dignity, as do the adults who work with them. They have a right to privacy, a safe environment and where appropriate, should be consulted and given the opportunity to express their views about decisions which may affect their lives.
- We recognise that without these rights, our students may be unable or unwilling to talk about the things which are frightening, worrying or hurting them and that confidentiality is fundamental to them feeling respected and safe.<sup>1</sup>
- At all times we will aim to respect our students' point of view and adopt a non-judgmental approach in our work with them.
- We recognise that the duty of confidentiality owed to a person under the age of 16 is as great as the duty owed to any other person.<sup>2</sup> We believe that all students are entitled to request a confidential meeting with any adult employed by the Academy.
- Staff do not have to agree to such a request but should bear in mind that the students may not feel comfortable talking to any other adult at that particular time and that they may have been chosen as a confidante for a particular reason.
- However, students must be made aware that staff cannot offer or guarantee unconditional confidentiality.<sup>3</sup> This includes any information relating to a Child Protection Issue. At Parkwood Academy we should also include in this category any information which places doubt about any person's health and safety.
  
- Section 175 of the education act 2002 requires governing bodies of Academy's and Academies' to make arrangements to "safeguard and promote the welfare of children"
- Our policy is designed to support, protect, safeguard and promote the welfare of both our students and our staff.

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<sup>1</sup> Sheffield Young Carer's Project, Confidentiality Policy 1998

<sup>2</sup> Confidentiality and People under 16. Guidance issued jointly by the BMA., GMSC, HEA, Brook Advisory Centers, FPA and RCGP

<sup>3</sup> Sex and Relationship Education Guidance for: Principals, Teachers and Academy Governors. DFEE

## 1. MAKING JUDGEMENTS ABOUT CONFIDENTIALITY

- Confidential means that information has been given ‘in confidence’ and the understanding of both parties is that the information will not be shared elsewhere. However, in order to resolve or move on certain issues presented by students to a member of staff, it may be necessary to interact with another agency or professional. In such circumstances, it should wherever possible, be discussed with the student and an agreement made about how much or how little of the specific information is to be shared.<sup>4</sup>
- In the case of a student refusing permission for information to be shared, the following points should be considered<sup>5</sup>
  1. Is it in the student’s best interests?
  2. Would further outside advice or intervention be helpful? If so what is the best way of working with the student to gain their agreement?
  3. How can they be best helped to protect themselves or others from harm
  4. Is the situation so serious that consultation without the student’s consent needs to be considered?
  5. What support or counseling will the student be offered and would you be able to provide it?
  6. The interests of any other person who may be at risk.

The UN Convention on the Rights of the Child states that:-

**“The wishes of a young person must be taken into account  
when considering their best interests”**

- At Parkwood Academy, we recognise the fact that our students span the age range of 11 – 16 year and are at differing stages of emotional maturity. When considering making a judgment about their best interests, the member of staff should also take into account the age and maturity of the student and subsequently, their ability to make an informed decision about their life.
- If staff wish to consult a third party for advice then this should always be done as an anonymous case. If this is not possible, the student should be informed of the need to discuss the situation with colleagues to assess whether they, or others, are at risk. The student should be invited to be present at the discussion if they so wish, in order for them to hear the exact content of the information shared.

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<sup>4</sup>The Rotherham Youth Start Confidentiality Policy

<sup>5</sup> Confidentiality and Young People: A Toolkit for General Practice, Primary Care Groups and Trusts

## 2. EXCEPTIONS TO CONFIDENTIALITY

In certain, specific circumstances, confidentiality may not apply and staff may disclose information to a third party<sup>6</sup>

The specific circumstances are:-

- i. They are required by law to disclose it
  - ii. It is the public interest to disclose it i.e. if the student has been abused sexually, physically or emotionally, is deemed to be suffering from neglect, or the safety or well being of the student or another person is believed to be at risk.
  - iii. With the express consent of the student
- With regard to the disclosure of information, our policy at Parkwood Academy is always to seek the consent of the student wherever possible and to discuss with them the exact course of action to be taken. However, the student should be informed that even without their consent the member of staff has a duty to refer information where necessary.
  - There are certain rare circumstances however, where the policy of seeking the consent of the student before breaching confidentiality would not apply, as doing so would compromise the safety and welfare of the student or others.

***“In cases where seeking consent to disclose would compromise the safety of a child or others (for example, where the case is one of suspected child abuse, organised or multiple abuse, child prostitution, or Munchausen syndrome by proxy, or where there is domestic violence) or would undermine any police investigation or Section 47 enquiry, advice must be sought from Social Services or the Police or from the Local authority Legal Department”<sup>7</sup>***

- Whenever a member of staff feels it may be necessary to breach confidentiality, this should first be discussed with the child Protection Liaison Officer (CPLO) or in their absence, the Deputy CPLO or the Academy nurse, and only with their agreement should the information be shared with a third party.<sup>8</sup>
- There may be other situations where a member of staff in their professional judgment of the situation, deems it appropriate to share or simply record confidential information. Under these circumstances, the information shared should be the minimum amount, directly relevant to the situation, be able to be formally justified in the best interests of the student if necessary and should be shared on a strictly ‘need to know basis’<sup>9</sup> only. Written information of this nature should not be placed in the student’s normal record

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<sup>6</sup> Data Protection Act 1998

<sup>7</sup> Chapter 3 south Yorkshire area Child Protection Procedures, Information Sharing and Confidentiality’

<sup>8</sup> Child Protection Whole Academy Policy

<sup>9</sup> Working Together to Safeguard Children: Dept of Health, Home Office and Dept for Education and Employment 1999. (2006)

but should be handed to the CPLO to be placed in the locked confidential file held by the CPLO. Usually these situations are those which will require a judgment to be made about personal health and safety. It may be helpful to consider what the worst possible outcome might be in arriving at your judgment.

### **3. PROCEDURES REGARDING DISCLOSURES**

- Students occasionally make personal disclosures, either in cases or to individual members of staff and both students and staff need to be clear about guidelines governing such disclosures. Information about students should not be passed on indiscriminately to others. If a student begins to disclose information of a child protection nature, the member of staff must inform the student that they cannot promise to keep it confidential. If, having been told this, the student still wishes to make the disclosure to that particular person that they can do so. It is appropriate to tell the student who it will then be shared with and when. The need for the student to be kept informed and to be supported during the process should also be taken into account<sup>10</sup>
- In all cases of a disclosure of a Child Protection nature, the information should be passed directly to the CPLO. The CPLO will then follow the appropriate Child Protection procedures. The information should not be discussed with other colleagues and must be put in writing immediately, thoroughly detailing the disclosure, the member of staff's involved and the action taken. The document must be dated, timed and signed, placed in the confidential file held with the CPLO and kept securely, regardless of whether or not it leads to the involvement of other outside agencies<sup>11</sup> any other copies of the documentation (e.g. computer files) should be destroyed.
- In lessons it should be established from the beginning that it is inappropriate to disclose very personal information. Students and staff need to be clear about not putting pressure on one another to answer questions about their own experiences. Ground rules regarding the protection of privacy should be set beforehand and clarification of understanding should be checked. All case study information used in lessons should be depersonalised or anonymous. If, despite these precautions having been taken, a student begins to disclose personal information, the member of staff must discreetly and sensitively intervene. They must also see the student discreetly after the lesson to allow further disclosure or to refer the student to an appropriate professional.
- In the case of staff being informed of an illegal activity by a student, action should again be taken in the best interests of the student. This does not necessarily involve informing the police. For example, teachers are not statutorily required to inform the police about illegal drug activity<sup>12</sup> the Academy has a separate Drugs Policy for dealing with such incidents and guidance regarding specific instances can also be provided by the Behaviour Consultancy Team representative. In the case of a child under the age of 13 being involved in sexual activity, this would always be deemed as illegal and if a member

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<sup>10</sup> South Yorkshire ACPC Procedures Manual 2001

<sup>11</sup> Child Protection: Whole Academy Policy

<sup>12</sup> Sex and Relationship Guidance for Principals, Teachers and Academy Governors. DFEE, July 2001

of staff becomes aware of it, the requirement is for them to report it to the appropriate authorities via the Academy's child Protection procedures. The age of consent for sexual intercourse is 16 years, and any students disclosing sexual activity below this age who are not deemed to be Fraser competent should be discussed with the CPLO.

- Teachers are not obliged to pass on all information about students to their parents/guardians<sup>13</sup> other members of Academy staff should seek advice from the CPLO, the Deputy CPLO or the Academy nurse as to whether or not parent/guardians need to be informed about an issue. Where a member of staff believes the student to be at moral or physical risk, or in breach of the law, they must ensure that the student is aware of the risks and encourage them to seek support from their parents/guardians.
- Outside agencies who work with students within the Academy must be made aware of and abide by the Academy policy about disclosures and confidentiality. However, they may also have a role in providing advice and support directly to students and as such may have their own professional guidelines on confidentiality to which they must adhere. The boundary between these two roles must be agreed with the Academy and the distinction in term of right to confidentiality, should be made clear to the students<sup>14</sup> It is the responsibility of the member of staff who invites the visitor / worker into the Academy to ensure that the confidentiality policy is discussed with them and in the case of student teachers, supply staff or volunteers, the responsibility lies with the member of staff who invited the visitor.
- The Academy Nurse and any other health professional working with students are bound by their own professional codes of confidentiality. Staff and students should be aware that health professionals can, after an assessment of Fraser competence,<sup>15</sup> (also known as Gillick competence) offer confidentiality in circumstances where other staff cannot, whatever the age or maturity of the young person. The NMC<sup>16</sup> states that all such professionals are accountable for their own practice and can only disclose confidential information obtained in the course of professional practice with "individual consent, where required by the order of a court, or where the disclosure can be justified in the wider public interest". All such professionals should also be made aware of the Academy's confidentiality policy, know who the CPLO is and how to access him/her within the Academy.
- Child Protection issues fall; under the "wider public interest category" of procedures, therefore everyone, including health professionals, are duty bound to pass on a disclosure. If a member of staff is in any doubt about whether they can preserve a student's confidentiality, it is advisable to refer them straight to the CPLO or the Academy nurse.

#### 4. DEALING WITH DIFFICULT CONFIDENCES

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<sup>13</sup> Code of Practice for Information Sharing and Exchange. South Yorkshire Connexions Partnership.

<sup>14</sup> The UKCC Code of Professional conduct for Nurses, Midwives and Health Visitors

<sup>15</sup> The UKCC Code of Professional conduct for Nurses, Midwives and Health Visitors

<sup>16</sup> The UKCC Code of Professional conduct for Nurses, Midwives and Health Visitors (Clause 10)

There are certain personal and sensitive circumstances which are free of the requirement to pass the information to the CPLO. These include:

- A student's concerns about sexual development and sexuality.
- Disclosure of pregnancy (unless there are concerns of sexual exploitation)
- Requests for advice on contraception and sexual health (unless there are concerns of sexual exploitation)
- Disclosure of substances abuse

It may be however, that your judgment under the 'personal health and safety criteria leads you to share the confidence with the CPLO. This is an acceptable course of action for staff. (Further guidance on specific instances can be found in the Academy Sex Education, Drugs and Child policies.)

If you do not feel it is a matter for the CPLO, you can freely consult with appropriate colleagues as long as any information presented to them is done so as an anonymous case. You should also ensure that you act within the following guidelines:

- Staff should encourage but not force the student to talk to and seek the support of a parent/guardian. They may offer to help the student in doing this. If the parent/guardian is informed by the student, the parent/guardian then becomes responsible for any subsequent action and the member of staff no longer has any responsibility for the matter. It is advisable to check with the student that the parent/guardian has been informed and make a written record of any discussion. If you are concerned that the parent/guardian has not been informed even though the student claims they have, it will be necessary to make a professional judgment about how to proceed. An acceptable course of action would be to share your concerns with another professional.
- In the event of a refusal to discuss the concern with a parent/guardian or an uncertainty that the parents/guardians have been informed, it is advisable to put the student in touch with an appropriate health professional e.g. the academy nurse or the student's G.P. any subsequent decision regarding informing the parent/guardian becomes the responsibility of that particular professional.
- Staff may give students general information about contraception but must not recommend a specific form of contraception. Students should be encouraged to seek advice from the Academy Nurse for further help and support. All disclosures about unprotected sex within the preceding 72 hours should be referred to a health professional for advice.
- It is important for staff to be aware that a student may be offered a confidential termination of pregnancy. This reflects a judgment by the medical profession which the academy would not have the right to overturn.
- Any continued pregnancy requires appropriate support, ideally parental. If a student refuses to inform their parent/guardian or fails to seek medical advice, the academy nurse should be informed.

## **5. CONFIDENTIALITY AND PARENTS**

- Parents are entitled to have a confidential discussion with a member of staff regarding concerns about their child and the child does not have to be informed that this is taking place. In keeping with our policy however, the parent should be encouraged to talk to their child about their concerns.
- During any discussion, staff are not able to offer unconditional confidentiality to parents/guardians and if they are informed during the course of the discussion of some behaviour of the parents (or of anyone else), which is likely to cause harm to their child or to other young persons, the member of staff must follow the Academy's child Protection procedures. If there is a concern regarding neglects or emotional abuse of the child, Parkwood Academy's policy is for them to discuss their concerns with the CPLO in the first instance.
- The member of staff must also ensure that the student's confidentiality is not breached during the discussion and the principles of the policy should be explained and discussed with the parent at an appropriate time.
- The confidentiality of other students who may be connected with the issue also needs to be protected, and the member of staff is responsible for ensuring that when in discussion with persons other than the individual student names of other students are not mentioned.

## 6. REQUESTS FOR CONFIDENTIAL INFORMATION

The Data Protection Act 1998 requires that personal information is:

*“obtained and processed fairly and lawfully; only disclosed in appropriate circumstances: is accurate, relevant, not held longer than necessary and is kept securely.”*

There may be occasions when a request for confidential information regarding a particular student is made from an agency or an organization. The usual course of action would be to seek advice from the CPLO or, if appropriate, the Academy nurse before any information is shared. However, there are specific circumstances where exceptions may have to be made:

- a. Where the student has agreed to the sharing of specific, relevant information with a particular individual, agency or organization.
  - b. Where the request falls within the South Yorkshire Area Child Protection Committees' procedures.
  - c. Where information is required as part of legal proceedings.
- Where information is released, this should usually be in the form of a written report, limited to relevant information only. Where possible the report should be shared with the student, except where doing so may compromise the safety and welfare of the student.
  - If a student leaves Parkwood Academy for another Academy, the Child Protection file and any other confidential documentation which may not necessarily be of a Child Protection nature, should be sent directly to the appropriate personnel at the new Academy via face-to-face meeting or special personnel prior to this happening.

## **BIBLIOGRAPY**

Child Protection: Whole Academy Policy

Citizenship Guidance for Principals, Teachers and Academy Governors. DFEE, July 2001

Code of Practice for Information Sharing and Exchange – South Yorkshire Connexions Partnership

Confidentiality and Young People – A Toolkit for General Practice, Primary Care groups and Trusts

Confidentiality and Young People under 16 – Guidance issued jointly by the BMA, GMSC, HEA, Brook Advisory Centre, FPA and RCGP

Sex and Relationship Education Guidance for Principals, Teachers and Governors. DFEE, July 2001

Sheffield Young Carer's Project – Confidentiality Policy 1998

South Yorkshire Area ACPC Procedures Manual 2001

The Children Act 1989

The UKCC Code of Professional Conduct for Nurses, Midwives and Health Visitors

The UN Convention on the Right of the Child

Working Together to Safeguard Children – Department of Health, Home Office and Department for Education and Employment. 1999

## **PARKWOOD ACADEMY**

### **CONFIDENTIALITY STATEMENT YOUR RIGHT TO PRIVACY AND RESPECT**

**ALL STAFF AT PARKWOOD ACADEMY ABIDE BY A CONFIDENTIALITY POLICY WHICH STATES THAT;**

- Everyone should be treated with respect and dignity.
- We recognise that the duty of confidentiality owed to young people of all ages is as great as to any other person.
- Any information you share with Academy staff / nurse will be dealt with sensitively and discretely.

**We're here to listen and to help**

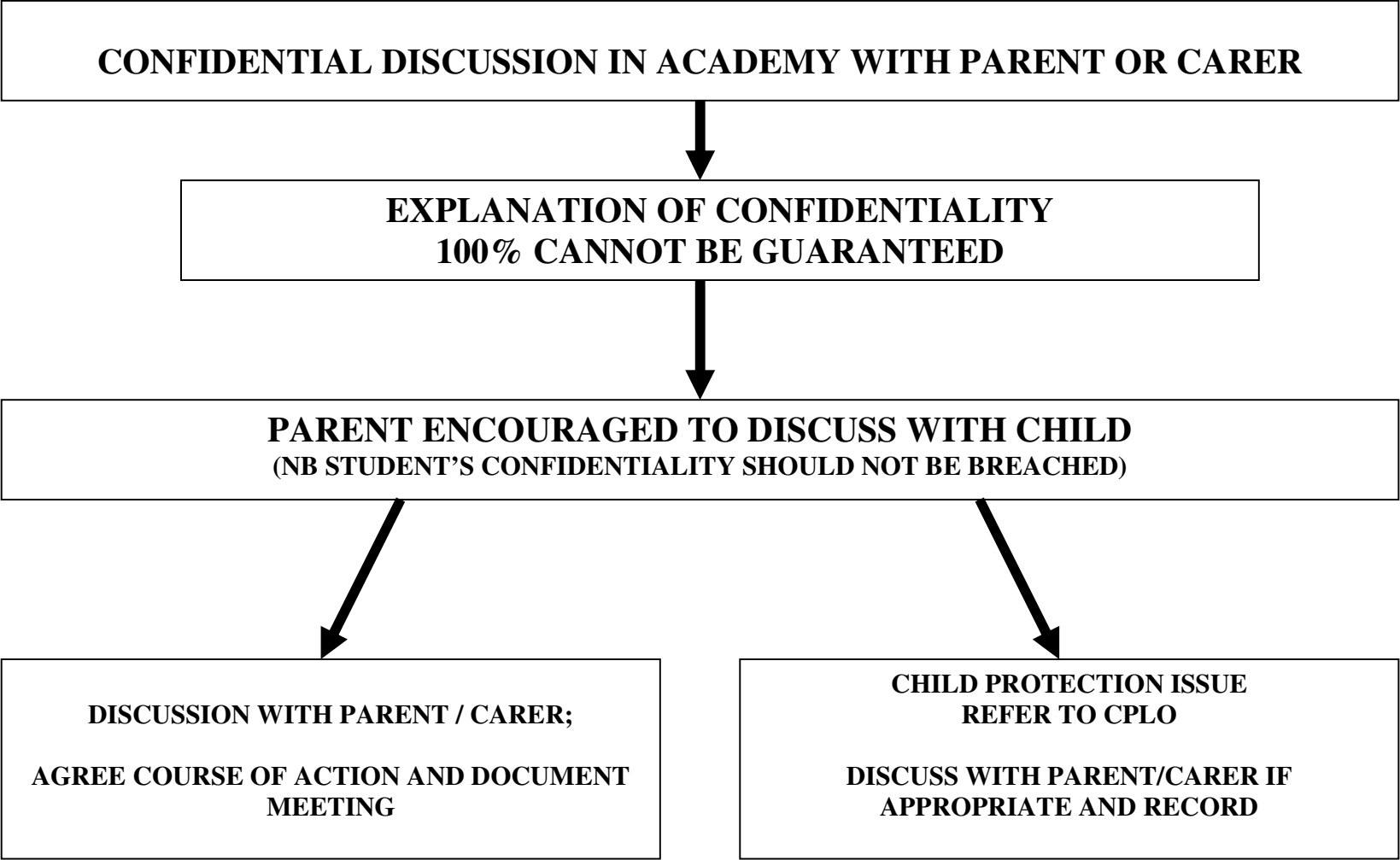
#### **However**

There are times when we have to tell someone else what is happening, to ensure our best care for you

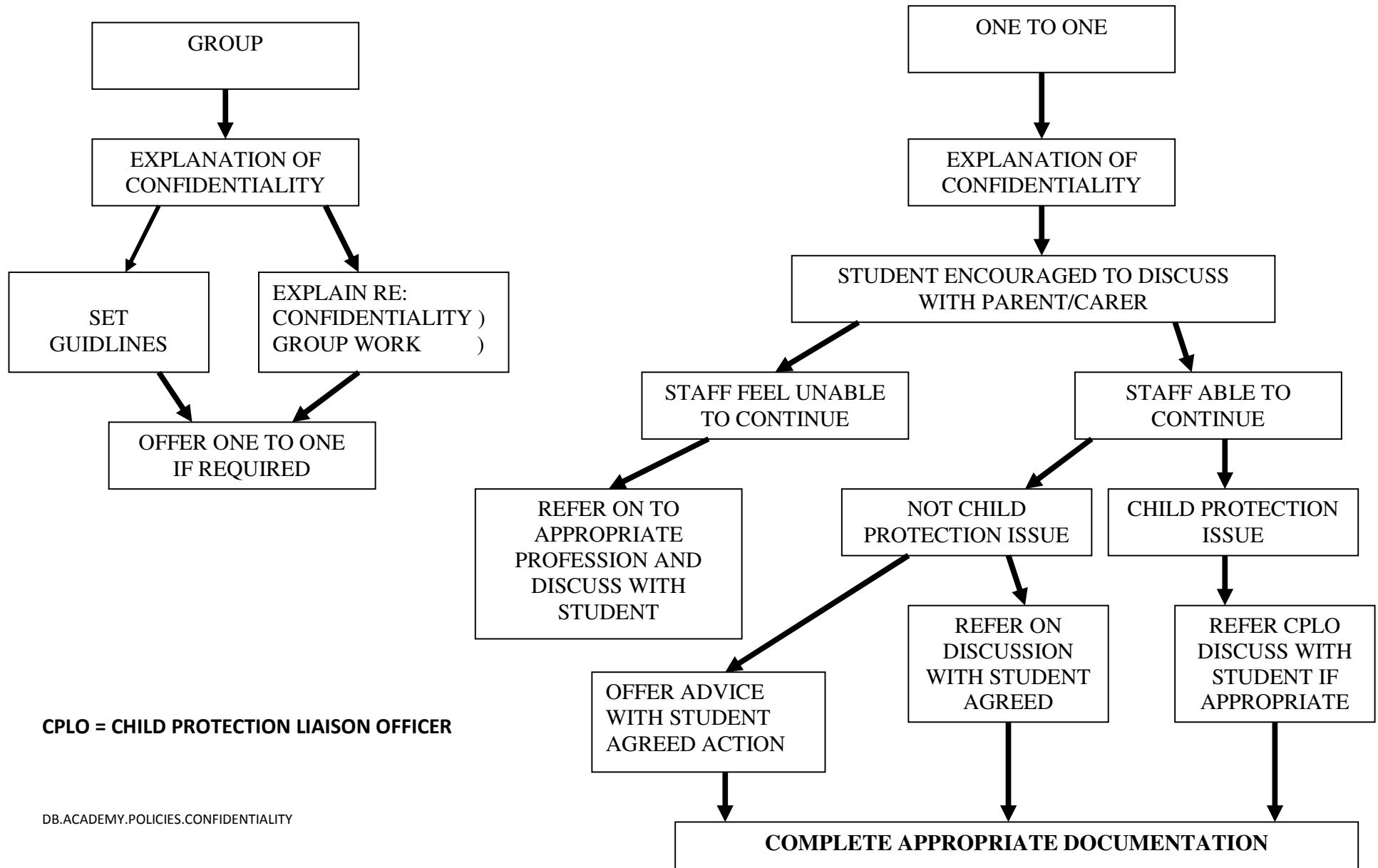
e.g., if you tell us about someone who has abused you or somebody else sexually, physically or emotionally, or if your or another person's life is at risk

Except in very unusual circumstances, this would be discussed with you first and the Academy will support you throughout this time.

***If you have any concerns about any aspect of confidentiality, please ask a member of staff***



# CONFIDENTIAL DISCUSSION WITH A STUDENT IN ACADEMY



**CPLO = CHILD PROTECTION LIAISON OFFICER**