

## CONFIDENTIALITY POLICY

NOTE

**This policy must read in conjunction with our  
Equal Opportunity and Diversity Policies**

1. Any information we collect will be regarded as the property of the person who has given it to us
  - a. We will only record it with their permission and we will only divulge personal information if withholding it would create an impediment to the due process of law.
  - b. In this case we will inform the client of our intention to break confidentiality.
  - c. Such decisions will have the full involvement of the project Co-ordinator and his/her Supervisor.
2. We will ensure to the best of our ability that information given to us in confidence is kept secure.
  - a. All personal records will be kept on a secure database managed by APT Projects Ltd on a remote server. Access is only available to named staff with suitable DBS checks via controlled passwords.
  - b. All correspondence will be marked confidential.
3. Personal information requested by the organisation will be collected only as required for the specific issues being dealt with.
4. Information about clients will be shared between members of the Take a Break team on a "need to know" basis. However, information given to the service is not the exclusive property, or responsibility of the volunteer or staff member to whom it was given.
5. It may be necessary or desirable to share information between members of the team.
6. Clients have access to, and should be made aware that they have access to, all information we hold on them.

- a. The only exception to this is where a third party has given information unaware of this intention.
  - b. We will inform all third parties of our confidentiality policies especially drawing their attention to point 6.
7. Information about the scheme's outcome will be recorded without the names of clients or the volunteers for monitoring purposes.

## **Breaches of Confidentiality Policy**

### **1. Policy**

Confidentiality may be breached only where, based on evidence:

- a client or someone else is in serious danger
- the good name or reputation of the organisation is at risk
- disclosure of information is required by law
- a potential conflict of interest exists.

A decision to breach confidentiality will always be taken very seriously.

Before a breach of confidentiality is sanctioned a judgement as to whether there is a serious risk of danger to the client or others or to the organisation will need to be made.

This decision will be based on:

- the balance of probability that such a risk exists
- the likelihood of the risk materializing
- the impact of the risk should it materialize.

A breach of confidentiality will not be sanctioned where there is little prospect of the risk becoming reality or where there is no evidence that there is a risk.

### **2. Procedure**

The procedure is designed to support staff by assisting them to reflect on the circumstances and clarify issues before a decision on breaching confidentiality is made and any action taken.

The procedure has three distinct stages. A decision not to breach confidentiality may be

made at any time. A decision to breach confidentiality can be made only at the final stage. The procedure does not necessarily take very long although in many cases there is no need for a speedy decision.

1. In-house discussion

In the first instance the co-ordinator should talk to the line manager. He or she may discuss the matter with a more senior line manager or consult more widely.

2. If it is not possible for the adviser to contact the manager, s/he should consult the Chief Officer.

3. Final decision

This lies with the Chief Officer and all stages should be fully recorded.

### **3. Guidance**

#### **Child Abuse**

The Children Act 1989 and related legislation impose a statutory obligation on a number of professions to report actual or suspected harm to children; this duty does not apply to Age Concern Okehampton and Torrington.

Where the possibility of abuse is drawn to an adviser's attention s/he may feel a moral obligation to act on the information. This is understandable, but should not lead to an adviser or the organisation automatically breaching confidentiality. The three-stage procedure should be used in every case.

In most cases, the allegations of abuse are made by a third party without first hand evidence. It may be possible for the adviser to help the third party to consider different options and perhaps obtain her/his permission to contact other agencies, or to make an appropriate referral.

If the client is supported by Adult Services contact should be made with the co-ordinator of the Complex Care Team on 01837 658047 or to Care Direct on 0845 1550 007

### **Calling the police**

In exceptional circumstances, where there is concern for the immediate safety of anyone in the centre, it may be necessary to call the police. If possible, a clear warning should be given that if a particular behaviour continues or is repeated the police may be called and be given the client's name and address.

### **Safety of a client or others**

Where we are concerned for the safety of a client or someone else and the client has left the premises, the usual procedure must be followed if a breach of confidentiality is being considered.

### **Conflict of interest**

In some situations client confidentiality can be breached in so far as a client has to be told that the other party to a dispute has already consulted with us.

### **Disclosure of crimes**

In England and Wales there is no duty to report a criminal offence, although it is an offence to assist in the commission of a crime. Being aware that a crime might take place is not, except in very unusual circumstances, assisting in the commission of that crime. However, if during the course of an interview a client begins to give information about criminal activities, it is good practice to warn the client of the consequences as the adviser could be summoned as a witness. There are two exceptions where there is a legal duty on advisers to report information:

**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. The Act applies to individual advisers rather than to the advice centre as a legal entity.

**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 contact with a client. The organisation will normally be required to disclose information.

### **Social Security**

Legislation, including the Child Support Acts, gives wide powers to inspectors to make enquiries and to examine records. These powers in theory extend to the examination of clients' case records. In fact these powers have never yet been used in this way in social security investigations and the Child Support Agency confirms that there is no intention to do so in their investigation procedures.

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