



Confidentiality and Data Protection Policy

1) Scope

1.1 To protect clients, employees and volunteers from the possibility of information about them being passed on to individuals or organisations who have no right to access their information.

1.2 To reassure clients that good care will be taken with information which they give to Mind employees so that they can trust our staff and feel able to share their confidential information with us.

1.3 Provide guidance to clients, staff and volunteers on the extent to which confidentiality is to be preserved, circumstances in which it may be breached, and measures to be taken for safeguarding information.

1.4 To encourage clients to make complaints about services in the knowledge that their confidentiality will be given high priority in so far as this is possible within the specific context of the complaint.

2) Our Confidentiality Statement

2.1 All Dudley Mind clients, staff and volunteers are required to respect the right of clients and colleagues to privacy and confidentiality as far as is possible within the constraints of legal requirements and our commitment to the safety of staff and service users.

2.2 Where it is thought necessary to pass on information to another individual this will be on a strictly 'need to know' basis. The consent of the person about whom the information is to be passed on will be informed of this unless there is a very powerful argument for not doing so.

2.3 This policy not only covers written information acquired through formal assessment but also refers to information acquired through personal contact, via third parties, by accident or through observation.

3) Circumstances in Which Confidentiality May be Breached

3.1 The general law does not give the absolute right to confidentiality except where there is a strict, narrowly circumscribed and binding contractual arrangement that does this.

3.2 Legal and statutory requirements affecting Dudley Mind include, but are not limited to;

- i) Reporting notifiable diseases to the Director of Public Health where required
- ii) reporting accidents at work as required
- iii) Responding to certain statutory requests for information, for example from the Inland Revenue. These requests may have variable status and should be examined individually.
- iv) Providing names of clients in shared houses for Council Tax purposes.
- v) Reporting criminal activity
- vi) Giving evidence in coroner's court.
- vii) Where an individual is summonsed to appear in court.

3.3) Staff confidentiality may be breached where the costs of maintaining confidentiality outweigh the benefits. Examples may be where a staff member discloses abuse (see whistleblowing procedure), where a staff member discloses serious misconduct or where the health and safety of an employee, service user or volunteer will be jeopardised without breaking confidentiality.

4) Duty of Care

4.1 We owe a duty of care to users of our services. It may therefore be necessary to breach confidentiality where a client is acting, or is likely to act in a way that could lead to harm to him or herself, or put others at risk.

4.2 Dudley Mind owes a duty of care to the general public. It may be necessary to pass on information to the Police or to other statutory services where there is considered to be a risk to individuals or the public at large, for example if a client discloses his or her intention to act violently or abusively.

4.3 Dudley Mind employees have a responsibility to show a duty of care towards all children and vulnerable adults.

4.4 If Mind employees suspect that an adult is being abused they should refer to the Adult Protection procedure.

5) Sharing Information with the Police

5.1 There is no absolute duty to share information with the Police except in cases where terrorism is involved. However, as a socially responsible organisation it is our policy to co-operate with the Police in the public interest. This should preferably be done with the knowledge of the individuals concerned and ideally their consent.

6) Passing on Information to Others

6.1) Where there is no legal obligation to pass on information but where there is a duty of care to an individual the decision on whether or not to do so has to remain one of *individual judgement based on the specific circumstances*. This will be based on considerations such as the degree of risk to others, the consequences of the breach of confidentiality, alternative ways of avoiding harm etc. Where confidentiality is breached this must be discussed with management first so that the organisation can be seen to have discussed, and then made a considered decision.

6.2) Where information is passed on it should be limited to only pertinent information, and limited to only those who need to know. In the case of social services or health professional's information should only be passed on to those involved in the client's care. Where we work jointly with statutory services it can be assumed that information should be shared in line with best practise; if a client specifically requests that certain information be withheld from certain members of a multidisciplinary team then the paragraph above must apply.

6.3 Dudley Mind will not pass on personal details without consent, but may agree to pass on messages if this is deemed appropriate.

6.4 All clients will be asked to sign a waiver when they join our service so that they fully understand that information may be shared between interested professionals. This waiver will specify the types of information that may be shared and with whom. In unusual circumstances a client may be asked to sign another more appropriate waiver, it should not be assumed that one general waiver form allows Dudley Mind to share all information with all purposes in line with 6.2 above.

6.5 Where a request for a reference is received in writing for a staff member or volunteer it will be assumed that this is done with the person's agreement and consent is therefore implied.

Care of Information

Dudley Mind staff and volunteers will take care to make sure that all verbal communication of a confidential nature is undertaken in a private place. It is not acceptable to breach confidentiality with the disclaimer that one was 'overheard'.

Dudley Mind staff and volunteers will take reasonable steps not leave confidential information lying around where it can be accessed by anyone other than colleagues involved in the care and support of a client, and will attempt to operate a clear desk policy. All staff personnel files and client files will be kept in a locked cabinet as far as is reasonably practicable.

Where the organisation is audited or checked for quality standards it should not be assumed that the auditing authorities have an automatic right to access confidential information. Under these circumstances clients and staff should be asked to sign a waiver, or information should be copied and anonymised.

All staff of Dudley Mind should have the right to the privacy of their electronic communications. Staff should take responsibility for the protection of their own password; all staff are advised to change their password regularly, particularly if they think their password may have been compromised. Nobody within the organisation shall have access to passwords. If there is a prima facie case that serious misconduct has been perpetrated by electronic means such as bullying, harassment, accessing illegal images etc then the CEO can apply to the board of trustees for permission to approach the IT support contractor for access rights to a staff members electronic account.

(See Data Protection Procedure for detail on collection, storage and disposal of personal data).

Complaints

The considerations around confidentiality involved with complaints are discussed separately in the complaints procedure. In summary it will be Dudley Mind's aim to maintain confidentiality where this is at all possible. However, sometimes the nature of the complaint and the content of the investigation may make a breach of confidentiality hard to avoid. The manager leading the complaints process should discuss these issues with the complainant.

Access to Information

Clients and staff have a right to see their personal files, this request should be made in writing wherever possible. The request should be made to the organisations Data Controller, who in this case is the Chief Executive Officer. Access must be granted as soon as is practical, but should take no longer to arrange than five working days. If requested Dudley Mind should help to facilitate the copying of documents. However, care should be taken to remove third party communications which remain a confidential matter between that third party and Dudley Mind. The file remains the property of Dudley Mind and should not be removed from the premises.

Review

This procedure should be reviewed every three years.

Dependent Procedures

Complaints
Adult Protection
Grievance
Recruitment and Selection
Disciplinary Procedure
Confidentiality Waiver Form