

## **Policy on Confidentiality**

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## **1. Introduction**

All involved in North Staffs Mind (NSM) have a primary allegiance to the service users. They also have other allegiances (ie. to other service users; to the organisation and to co-workers; to society at large; to the legal process; and to funding bodies) which may exceptionally take precedence.

## **2. Scope**

- 2.1 All service users, workers, volunteers and trustees have a right to expect that information given in confidence will be used appropriately, only for the purpose for which it was given, and will not be released to others without their consent.
- 2.2 NSM also has a right to expect that information regarding the operation and management of the organisation and sensitive business information remains confidential within the organisation.
- 2.3 This duty of confidentiality applies to all workers, volunteers and trustees.

## **3. General Principles**

- 3.1 NSM recognises that NSM staff (employees, volunteers and students) gain information about individuals during the course of their work or activities. In most cases such information will not be stated as confidential and staff may have to exercise common sense and discretion in identifying whether information is expected to be confidential. This policy aims to give guidance but if in doubt, seek advice from your line manager.
- 3.2 All staff have a duty to keep personal information about service users safe and confidential. Service users need to feel that they can trust staff if they are discussing personal or sensitive matters with them, and every service user has a basic right to privacy. However, by engaging with our services the service user is giving consent for NSM to access any records that may be required for an accurate and ongoing assessment of need.
- 3.3 Staff are able to share information with their line manager in order to discuss issues and seek advice. The different services operated by NSM will exchange relevant information and records about service users between themselves as required.
- 3.4 Staff should avoid exchanging personal information or comments (gossip) about individuals with whom they have a professional relationship, must not discuss service users outside of work, and must be mindful of whether they can be overheard by others when discussing sensitive or confidential information about service users.
- 3.5 Colleagues will not disclose to anyone, other than their line manager or supervisor, any information considered sensitive, personal, financial or private without the knowledge or consent of the individual.

#### **4. Record keeping/storing information**

NSM will adhere to Caldicott Principles in dealing with and maintaining records.

- 4.1 The level of information and data kept about individuals will be the minimum required to enable NSM to provide the service required.
- 4.2 Records will only be available to those directly involved in providing that service and to senior staff when appropriate.
- 4.3 Except when in use, written records will be kept in locked storage cabinets, and computer records will be password protected.
- 4.4 Records will be sifted on an annual basis with the intention of destroying any information no longer required.
- 4.5 Records will be as factual as possible.
- 4.6 Information about ethnicity, age and gender of service users is kept for the purposes of monitoring our Equal Opportunities Policy and also for reporting back to our funders. It is anonymised and only reported periodically as an overall figure.
- 4.7 Information about volunteers, students and other individuals will be kept in a locked filing cabinet by the service manager directly responsible.
- 4.8 Employees' personnel information will be kept in a lockable filing cabinet in the Chief Executive's office and can be accessed by the relevant line managers and Chief Executive only. Financial information relating to the payroll will be held by the Finance Manager in a lockable filing cabinet. The information within these files will only be shared on a 'need to know' basis.
- 4.9 Files or filing cabinets bearing confidential information should be labelled "confidential".
- 4.10 In an emergency situation the Chief Executive may authorise access to files by other people.

#### **5. Access to Information**

- 5.1 Information is confidential to NSM as an organisation and may be passed to colleagues, line managers or trustees to ensure the best quality service for users.
- 5.2 Where information is sensitive, ie. it involves disputes or legal issues it will be confidential to the employee dealing with the case and their line manager. Such information should be clearly labelled "confidential" and should state the names of the staff entitled to access the information and the name of the individual who may request access to the information.

- 5.3 Staff will not withhold information from their line manager unless it is purely personal.
- 5.4 Service users have the right to access anything that staff employed by NSM have written about them; however access to files, reports and case notes written by third parties (eg. social workers or CPNs) should be at the discretion of the relevant service manager, who may need to seek the permission of the third party beforehand.
- 5.5 Employees may have sight of their personal records by giving 14 days notice in writing to the Chief Executive.
- 5.6 When photocopying or working on confidential documents, colleagues must ensure that they are not seen by people in passing. This also applies to information on computer screens.

## **6 Consent**

- 6.1 When it is proposed to disclose information about an individual, that individual's consent should be sought (except where an Act of Parliament decrees otherwise).
- 6.2 Consent should, as far as possible, be informed consent ie. the individual should fully understand
  - 6.2.1 Why there is a need to disclose the information
  - 6.2.2 The extent of the information involved
  - 6.2.3 Who will have access to it
  - 6.2.4 The likely consequences of giving or withholding consent.
- 6.3 It is the responsibility of the person passing on the information to adhere to the terms agreed.
- 6.4 Written consent should be obtained wherever possible, particularly where conflicts or difficulties may arise.

## **7 Anonymity**

- 7.1 The names of individuals (or other information sufficient to identify them) will not be passed to other people or agencies unless necessary as part of service provision e.g. as part of a Care Co-ordination process where consent is implicit. Messages left for service users will not mention NSM unless it is known to be acceptable.
- 7.2 Discussions in meetings will not normally refer to individuals by name without their consent; where it is unavoidable records of meetings and contract documentation will use initials only.

- 7.3 Counselling clients will be made aware that aspects of what they tell their counsellor may be discussed in supervision, but that their names will be protected.
- 7.4 All telephones which could be traced to NSM will be removed from telephone call-tracing facilities.

## **8. Duty to Disclose Information**

8.1 There is a duty to disclose some information including:

- 8.1.1 Child abuse will be reported to the relevant Social Care department. (For further information see NSM's Child Protection Policy).
- 8.1.2 Drug trafficking, money laundering, acts of terrorism or treason will be disclosed to the police.
- 8.1.3 When required to do so by the process of law.

## **9. Illegal Acts**

- 9.1 There is no general duty to report crime, except as required by specific Acts of Parliament (Prevention of Terrorism, Proceeds of Crime).
- 9.2 Where it appears that a service user is about to disclose involvement in an illegal act not covered by specific legislation he/she should be warned that confidentiality may have to be breached.
- 9.3 The issue will be discussed openly and genuinely with the individual concerned, and it will be stated that the information will be shared in confidence with the supervisor/manager. It will also be made clear that no further action will be taken without the service user's knowledge.
- 9.4 Every effort will be made by the NSM worker to encourage the service user to cease or report any illegal act which causes harm to others, and support, if required, will be offered.
- 9.5 If the service user refuses to cease illegal activity, it will be made clear that the NSM worker will discuss the matter with their supervisor/manager and the appropriateness of continuing the relationship.

## **10. Disclosures**

NSM complies fully with the Disclosure and Barring Service (DBS) (formally Criminal Records Bureau (CRB)) Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and disclosure information. Further information about our operational practices is detailed in the Disclosures and Disclosure Information Policy in the Staff Handbook.

### **11. Self-Harm**

When a service user appears at risk of suicide or substantial self-harm, support will be offered including help in contacting other agencies, normally subject to consent. (See Guidelines on Working with Suicidal Clients, Guidelines for Working with Young People who are Self-Harming).

### **12. Child Protection**

NSM has a Child Protection Policy which should be referred to if there is any indication that a child may be at risk.

### **13. Court Orders**

Disclosure of information required by Court Order will be limited to that specified.

### **14. Data Protection**

NSM is registered with the Information Commissioner's Office under the Data Protection Act as a data controller.

Information about individuals, whether on computer or paper, falls within the scope of the Data Protection Act and must comply with the data protection principles.

These are that personal data must be:

- ❖ Obtained and processed fairly and lawfully
- ❖ Held only for specified purposes
- ❖ Adequate, relevant and not excessive
- ❖ Accurate and up- to-date
- ❖ Not kept longer than necessary
- ❖ Processed in accordance with the Act
- ❖ Kept secure and protected
- ❖ Not transferred out of Europe.

For further information see the Data Protection Policy in the Staff Handbook.

### **15. Breach of Confidentiality**

15.1 Confidentiality may only be breached:-

- As required by Acts of Parliament (Prevention of Terrorism, Proceeds of Crime) or
- Where there is a duty under Child Protection Policy or
- If the service user is considered to be at serious risk of harming themselves or others due to recognised mental health problem and is unable to make a rational decision. (See Guidelines on Working with Suicidal Clients).

15.2 If confidentiality is to be breached (except under Prevention of Terrorism, Proceeds of Crime Act)

- The service user should normally be informed of NSM's intention and what form it will take.
- There will normally be discussion with a supervisor or line manager.

- Records of what was disclosed, to whom it was disclosed, reasons for it and any other information necessary to substantiate the reasoning behind the decision will be kept. These notes should be contemporaneous wherever possible and passed to the line manager for safekeeping.

15.3 Staff who are dissatisfied with the conduct or actions of other colleagues or NSM should raise this with their line manager using the Grievance Procedure, if necessary, and not discuss their dissatisfaction outside NSM.

15.4 Staff accessing unauthorised files or breaching confidentiality may face disciplinary action. Ex-staff breaching confidentiality may face legal action.

## **16. Complaints**

Any problems arising from confidentiality issues should be taken up in accordance with NSM's Complaints Procedure.

16.1 Investigations with respect to complaints will be conducted in a confidential manner and the findings will be treated confidentially. Wherever possible the confidentiality of complainants should be protected.

16.2 NSM will protect the confidentiality of staff and trustees who are the subject of complaints. Accusations against staff should only be known by the individual, any relevant witnesses and the complaints investigator.

16.3 Records of complaints made about NSM's services or individual staff and volunteers will remain confidential to the organisation and will be stored appropriately. Anonymous complaints information will be published annually in the Annual Review in line with the principles of answering to the public and user involvement.

16.4 NSM recognises that in some instances complaints may be made by a "third party", a person authorised to act on the service user's behalf. Under these circumstances the organisation will ensure that its response in no way breaches the confidentiality of the service user.

## **17. Declarations of Interest**

Information provided by staff and volunteers about other interests in their private, public and professional lives and declared on the Staff/Volunteer Declaration of Interests Form will be kept securely by the Chief Executive and will only be disclosed to other internal parties where specific circumstances require it.

## **18. Whistleblowing**

NSM's Whistleblowing Policy allows workers to raise a concern in confidence. If asked to protect the identity of individuals the organisation will not disclose their identity without their consent and will take all reasonable steps to preserve anonymity wherever possible. If the situation arises where the organisation is not able to resolve the concern without

revealing the individual's identity the worker will be consulted as to how they wish to proceed.

### **19. Relevant Legislation**

The following main pieces of legislation relate to confidentiality:

- Data Protection Act 1998
- Public Interest Disclosure Act 1998
- Human Rights Act 1998
- Telecommunications (Lawful Business Practice) Regulations 2000
- Protection of Children Act 1999
- Freedom of Information Act 2000

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<b>Date of Implementation</b>	<b>June 2011</b>
<b>Date of next review</b>	<b>July 2018</b>

## **Appendix 1**

### **Confidentiality for Counselling Service Clients**

North Staffs Mind (NSM) abides by British Association of Counselling and Psychotherapy's *Ethical Framework for the Counselling Professions* (2016), and expects its counsellors to be familiar with it, and also to abide by it.

The general principles of confidentiality set out in North Staffs Mind Confidentiality Policy apply to Counselling Services, but counselling demands certain other issues to be covered specifically. These are set out below, but there may be occasions when other issues arise which are not addressed in the main policy document or in this appendix. In these circumstances counsellors are advised to seek advice from their line manager.

#### **Limits of confidentiality:**

*We can only guarantee confidentiality to a certain degree – there are instances where we have no choice but to disclose information under legislation:*

Terrorism (where a client reveals involvement in, knowledge of, or intention to take part in, a terrorist act)

Under the Proceeds of Crime Act (where a client reveals income made as a result of illegal activity, such as drug dealing)

In child protection cases (see North Staffs Mind Child Protection Policy)

Involvement in road traffic accident (where client reveals they were involved in an incident which caused personal injury and this has not been reported to the police).

*There are other circumstances in which client confidentiality might be breached as a result of having to involve third parties:*

If a client becomes ill in the building and we require medical assistance, such as ambulance services.

If a client acts in such a way that we need to call the police. (See North Staffs Mind Guidelines on Dealing with Aggressive and Violent Incidents)

Seriously suicidal clients (see Guidelines on working with Suicidal Clients).

#### **Groupwork**

Where groupwork is taking place, the confidentiality rules in the group must be made explicit to the participants in the groundrules, and agreement to these must be sought from all group members. Participants should be reminded that they are responsible for what they choose to disclose, and that respect for each other and for the information revealed in the group is key to a safe environment being established.

## **Appendix 2**

### **Release of information to third parties**

#### **Written requests**

We sometimes have requests for information about a client from third parties, such as solicitors, other agencies, benefits agency etc.

It is explicit in our client agreements that we do not keep case notes and cannot therefore be required to supply them to solicitors etc. However, we can write letters, with client consent, to advise of attendance and any brief relevant details. The content should be factual, concise and should be discussed with a line manager before sending. It is usually better for the letter to be signed by a manager rather than the individual counsellor. This way the format is agreed and appropriate. The client would normally be given sight of, or a copy of, the correspondence.

If the client is a young person, not deemed competent to give consent, then parental/other consent would be required.

#### **Telephone Requests**

Occasionally someone else will ring to ask for information on a client – another agency checking they kept the appointment etc.

**Reception staff** will normally receive such calls, and the policy should be to advise that we do not normally give out information on clients without explicit consent. It is acceptable for NSM staff to request the name and telephone number of the caller, and to call him/her back, to verify his/her identity and position.

If the caller is insistent, the member of reception staff should ask why they need the information, who they are (full contact details) and then pass the details to a senior member of staff who will then deal with the enquiry, or advise the reception staff how to proceed.

The senior member of staff should ascertain fully why the information cannot be requested directly from the client by the caller. If it is clear that by offering information about the client's attendance it will be helpful to the client (e.g probation services checking if a client is meeting a requirement), then brief information can be given, but it should be made clear that in future the client's consent is required, in writing, from the other agency.

## **Appendix 3**

### **Taping/recording of counselling sessions or other client work**

Trainees on courses, often have to present a taped session as part of their course work. It can also be useful for qualified counsellors for supervision, development or research purposes. It can also be useful to electronically record some client work, e.g. songs, interviews, imagery etc. NSM has agreed this can be authorised providing:

- The counsellor discusses the need/requirement to make a tape/recording with his/her line manager and supervisor.
- The counsellor thinks carefully about the client he/she is considering recording. Due consideration should be given to the client's vulnerability and the stage of the counselling relationship, and this should be discussed with the supervisor and line manager.
- The client should be approached at least a week before the proposed recording in order for the client to fully consider the request.
- The client has given fully informed consent, knows for what purpose the tape/recording is being made and who will have access to it. The usual client/counsellor/supervisor boundaries of confidentiality are being extended, and this must be fully explained to the client. The counsellor should also explain to the client that taping/recording a counselling session may impact on the dynamics of the relationship, but that the emphasis in making the recording is on the counsellor, not on the client.
- Consent must be given in writing, using the appended form. Once completed and signed this form should be passed to the Counselling Services Manager (adult clients), or Younger Mind Team Manager (children and young people).
- A recording made of a counselling session by a trainee counsellor may only be heard by the supervisor, course tutor and examiner, and must never be used in any setting where others may hear it. The person(s) who are to hear the recording must be named to the client wherever possible. NSM accepts that this may not be possible in relation to a course external examiner/verifier. But it can be explained to a client that this person is usually someone from outside the immediate geographical area.
- Recordings of counselling sessions are not used in peer assessment sessions. A transcript, with editing to allow for removal of names and any identifying details, can be used for this purpose.
- Once a recording has been made, the counsellor should check with the client that he/she still consents for it to be used for the stated purpose.
- Once its purpose has been met, the recording must be destroyed in accordance with the method agreed and stated on the consent form.

NSM recognises the importance of the therapeutic alliance between the counsellor and client, and a client's wishes take precedence over any supervisory or training provider requirements. So, if a client refuses a request to record a session this should be respected by the counsellor and NSM, and no further requests should be made of that client.

The client has the right to withdraw consent at any stage in the process, in which case any recording already done will be destroyed in accordance with the arrangements specified on the form.

Any trainee placement counsellor found to be making or using a recording inappropriately will jeopardise his/her placement with NSM.

Occasionally a client may request permission to record a session. This is unusual, but not unknown. The counsellor should discuss the request with the client, clarifying the purpose of the recording. The counsellor should also discuss this with his/her line manager and supervisor, and may consent to the recording being made having taken onto account its possible impact on the therapeutic alliance and the dynamics of the counselling relationship.



**North Staffs Mind**  
**Taping/Recording Consent Form**

Name of Counsellor:

Purpose of Tape/Recording:

Academic institution/ Course:

I agree to the above counsellor taping/recording a session(s)/or piece of work for the stated purpose.

I have been made aware of the use to which the tape/recording will be put, and **consent** for it to be used in this way, but for no other purpose.

Once the tape has been used for the above purpose it should be **destroyed**.

- *By being destroyed/ wiped clean*
- *Returned to me.*

Please circle which preferred method.

***I understand I am free to withdraw my consent at any time. I will inform my counsellor should I wish to do this.***

Signed \_\_\_\_\_

Dated \_\_\_\_\_

## **Appendix 4**

### **Retention of counselling clients' referrals**

#### **General principles**

- NSM recognises the need to maintain client confidentiality after counselling has ended.
- Any written paper records held by NSM will be kept securely in locked locations, and information held on computer will be password protected.
- Computer records (for example, client database) will be retained by NSM for a period of three years, after which they will be destroyed.

#### **Adult Counselling Services:**

Client data is held in written paper records as well as on computer. Paper records will be kept for a period of three years and then destroyed. The computer database is secure and password protected, and this information is kept for three years and will then be destroyed.

#### **Younger Mind services:**

All client information is held on a secure data base, is kept for three years and then destroyed.

All client paper based files will be retained for a 12-month period once counselling has ended, unless it is deemed advisable to retain the entire file for an extended period. For example, if the referral has been complex and it is felt that the client may re-refer or, if the work with the client has involved a multi-agency approach, and a large amount of written information about the client has been generated, and it is felt that the client may re-refer in the future. This usually occurs when a Child Protection referral has been made either by NSM or by another agency/individual. The decision as to whether information is retained is ultimately that of each service manager. Any written information will be stored in a locked location, and will be retained by NSM until the child reaches his/her 18<sup>th</sup> birthday, after which it will be destroyed. In either case, both 12 month and long term, client files to be retained will be stored in separate locked filing cabinets at each Younger Mind office.