



For better  
mental health

Policy: Confidentiality

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Reviewed By:

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Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Date for Review:

## **CONFIDENTIALITY POLICY**

### **INTRODUCTION**

Mind in Mid Herts recognises that it has a duty of confidentiality towards: -

- a) People who use our services and their partners, families or carers
- b) Trustees, Staff and Volunteers
- c) Other agencies

This means that everyone who works at Mind in Mid Herts, paid or unpaid, must respect information about others. Such personal information belongs first and foremost to the individual concerned.

There are many and often conflicting issues that may arise when we consider confidentiality. It will never be possible to legislate for all circumstances, and workers will often have to use their own judgements within the general principles contained in these guidelines.

The Data Protection Act 1998 applies to all information held by us.

This policy attempts to set out some general principles. The guiding principle must generally be:- *“What would I want if I were this person?”*

### **DEFINITIONS**

*“People who uses our services”* means users of our Befriending Scheme, Advice services, Social Groups and any other service run by Mind in Mid Herts.

*“Trustees, Staff and Volunteers”* or *“all people who are paid and unpaid”* means Trustees, employees and volunteers of Mind in Mid Herts.

*“Senior member of staff”* means Director, Trustees of the Executive Board.

## **SECTION 1: Duty of workers regarding those who use our services**

- 1) The “need to know” principle – sharing information within Mind in Mid Herts**

We cannot promise “*never to tell anyone else*” as a general principle. Information about an individual that comes into our possession is confidential to Mind in Mid Herts as an organisation. The exemptions to this are outlined under Section 2 below.

However:-

- a) The individual who receives the information undertakes to be responsible about the information learnt.
- b) He/She will not gossip about it, or discuss it, on social occasions.
- c) If he/she decides to share the information with other workers, it must be for one of the following reasons:
  - The worker needs support, help or supervision to deal with the information and/or help the individual.
  - The worker considers that others within Mind in Mid Herts need to know, in order to help the individual concerned.
  - The worker considers that others within Mind in Mid Herts need to know in order to protect a third party.

## **2) Sharing information with people or agencies outside Mind in Mid Herts.**

Where disclosure is necessary, only necessary and helpful information should be exchanged. Decisions will be guided by the following considerations:

- a) If a person states that they intend to harm themselves, the worker (paid or unpaid) has a moral obligation to notify this person, immediately, that they will need to report this to an appropriate person or authority (i.e. GP, Social Worker or the emergency services).
- b) If the worker believes that the person intends to, or is harming others (whether it be a child under the age of 16 or an adult), or has committed a serious crime, again the worker must notify this person that they will need to report this to an appropriate person or authority.
- c) If the law states that information must be given to the enquirer, e.g., if the police are investigating a serious crime.

Where appropriate, the worker should first encourage the person to go to the appropriate authorities. If the person refuses, the worker should initially, and if

practical, consult a more senior member of staff (preferably line manager) before approaching the outside agency. If appropriate, advice should be taken from the Director, the Board of Trustees and/or our Legal Advisor.

If the person is mute or incomprehensible, the worker must use his/her own best judgement as to what course of action would be the most beneficial to the person.

Individual projects may have specific issues and this policy may be supplemented by negotiated agreements with partnership agencies.

### **3) Written Information**

The function of all record keeping is to contribute to the well being of the person concerned. It should be kept to a minimum.

In general, there are two kinds of written information about an individual.

#### a) Notes, letters, etc. written by Mind in Mid Herts about an individual.

We have an “open notes” policy. This means that an individual has the right to see (and if wished, have copies of) anything that Mind in Mid Herts writes about them.

The person should be asked for their permission (in writing) before their notes, etc, are shown to another agency. If permission is refused, the material may not be shared, unless we have a clear legal obligation to do so (as outlined under Section 2).

The only exception is where the material contains confidential information about another person. Therefore, care should be taken when writing notes, etc; to avoid including information about other named persons.

If a Mind in Mid Herts worker needs to write to another agency about the individual, the letter should be shown to the individual before sending. In all cases, a copy letter should be made available to the individual at the earliest available opportunity. Where appropriate, the phrase “any reply to this letter may be shown to the individual concerned” may be used on letters.

All written material about a person should be kept in a secure place that is not accessible to anyone except the relevant Mind in Mid Herts staff.

#### b) Letters and other documents from outside agencies to Mind in Mid Herts.

In law, letters and documents from outside agencies or other third parties cannot be shown to an individual without the author’s written permission.

However, if the letter is a response to a letter from Mind in Mid Herts which contained the phrase “ any reply to this letter may be shown to the individual concerned”, then the reply may be shown to the individual.

## **Section 2: Duty of workers regarding each other**

Workers are often privy to confidential information about each other. This may be gained from application forms, job interviews, supervision or management sessions, employee records, etc, as well as in less formal ways.

Workers who take responsibility for the above matters also have a duty to respect the confidentiality of the workers concerned.

### **1) Verbal information**

Information learnt about individuals in:

- Job interviews or volunteers interviews
- Supervision or management sessions
- Staff support groups
- Disciplinary procedures, etc.

Should be respected as confidential information by those present. Using the same principle as under Section 1, such information may be shared with others at Mind in Mid Herts, if considered necessary. However, the person’s permission should always be gained if possible.

### **Sharing information with people outside of Mind in Mid Herts**

No personal information regarding a worker should be given to anyone outside of Mind in Mid Herts without permission. This particularly applies to giving out the private addresses, telephone number, etc., of workers. Discretion should be used in giving these details even within the organisation.

### **2) Written information**

Forms and files about paid and unpaid staff should be kept in a secure place. Access should be limited to people who have a need to know.

### **Open files policy**

Every worker may see their own file on request. When Mind in Mid Herts applies for or supplies references for job applicants, the referee is informed that the applicant will have access to the reference. In recruitment, application forms

should be stored in a place, both before and following interviews. Application forms and interview notes should be kept for a *minimum* of six months.

Once the six-month period is up unsuccessful job applications must be shredded once the relevant details needed for our records for monitoring and implementing our Equalities Statement and Policy have been recorded. (E.g. ethnic origin etc.). *Loss of papers or irresponsibility to any of the above will be considered as a disciplinary matter.*

Confidential information about individuals must not be left by staff in the office, social centre, cars or other places to which anyone else other than those authorised could have accidental access. Particular care must be taken to ensure that confidential papers are not left on shelves, desks, tables, office notice boards etc., they must be locked away in filing cabinets, thereby eliminating the temptation to be read or perused by anyone who may be in the vicinity or passing. Likewise, keys, handbags, briefcases etc. should not be left in unlocked offices.

All seconded staff will adhere with this policy except by prior negotiation with the Director and Board of Trustees.

Breaches of the Confidentiality Policy by anyone within Mind in Mid Herts could result in disciplinary action.

### **Section 3: Disclosure of Information to the Police**

Before such disclosure is made the following conditions must be satisfied.

- a) The crime must be sufficiently serious for the public interest to prevail. (Section 116 of the Police and Criminal Evidence Act 1984, provides a guide to what constitutes a serious crime).
- b) It must be established that without disclosure, the task of preventing or detecting the crime would be seriously prejudiced or delayed.
- c) Satisfactory undertakings must be obtained that the information will not be used for any other purpose and will be destroyed if the person is not prosecuted, or is discharge and acquitted.
- d) The request must come from a police officer of senior rank.
- e) All decisions regarding disclosure to the police must be approved by the Chair of the Executive Board or the Director and the person in question must be notified immediately.

### **Section 4: Others**

## **1) Publicity**

The privacy of individuals and projects must be respected in any publicity material. No private address or telephone number will be revealed. Photographs of individuals will only be used with the express permission of those (and recorded in writing) in the photograph.

**Only** the Director or Chair of the Executive Board can deal with publicity requests and they must be in accordance with Mind in Mid Herts' policies.

## **2) Training and course material**

Care must be taken when writing reports or using case histories for training or college work. The piece must maintain the person's anonymity, e.g. using a different name or non-linking initials. If the work is detailed and a person could possibly identify themselves or someone else, permission to use material must be sought (in writing) in advance and the Director must be informed of all decisions made.

## **3) Reviewing of Policy**

The Sub-committee for Personnel should review this policy when considered necessary or when particular difficulties are encountered in implementing it. In any event, the policy will be formally reviewed no less frequently than every three years.

## **4) Concluding Policy**

This policy, which presents a framework to assist good practice, should be implemented flexibly and sensitively, but also realistically – acknowledging that the various resources/projects within Mind in Mid Herts are very different from each other. Each service requires different sorts of information about those who use the service.

In order to ensure the most effective implementation of this policy, it should be read in conjunction with other written policies and procedures of the Association.