



## H & F Mencap

# Confidentiality Policy and Procedure

### Policy Statement and Scope

HF Mencap understands that employees, volunteers and trustees will encounter information about individuals and other organisations during their work or other activities. This policy and procedure outlines our expectations of confidentiality and how such information should be regarded during the time of working with HF Mencap and after employment (or volunteering) ends. If employees or volunteers are unsure whether an issue is confidential they should seek advice from their line manager.

HF Mencap takes its responsibilities in relation to confidentiality extremely seriously and any breaches will be taken seriously. All employees and volunteers are required to abide by this policy and procedure.

### 1. Aims

- To enable HF Mencap to protect the confidentiality of staff, volunteers, service users and carers.
- To set out the context in which confidential information can and should be shared and disclosed to others.
- To enable HF Mencap to comply with its legal responsibilities as an employer and a service provider.

### 2. Definition

**2.1 What is confidentiality?** A confidentiality breach is the disclosure of information to someone without the consent of the person who owns it. In other words, failing to respect a person's privacy or the confidence in which they gave the information or data to you, by passing it onto

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someone else (Directline for business, 2018). ***Please refer to the adult safeguarding and child protection or the whistleblowing policy and procedures if you have a concern over the health or safety of an individual or employee's working practices.***

### **3. Responsibilities**

#### **3.1 Trustees**

- To act in accordance with this policy and procedure.
- To take reasonable steps to satisfy themselves that the policy is being implemented.

#### **3.2 Senior staff**

- To act in accordance with the policy.
- To communicate the policy to other staff and volunteers and to ensure it is being implemented correctly.
- To advise staff on any issues or concerns that arise with the implementation of the policy
- To monitor performance of the policy and report to the Chief Executive Officer.

#### **3.3 All Staff and volunteers**

- To act in accordance with the policy.
- If in doubt, to raise any issues or queries in relation to the policy with a line manager or the Director of Business and Operations.

### **4. General principles of confidentiality**

- Staff, volunteers and trustees should not divulge the personal circumstances of a colleague, volunteer, trustee, service user or carer without the permission of the individual concerned.

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- Employees should avoid talking about individuals in social settings and should avoid exchanging personal information or comments (gossip) about individuals with whom they have a professional relationship.
- Colleagues are able to share information with their line manager in order to discuss issues and seek advice. Colleagues will not withhold information from their line manager unless it is purely personal.
- When photocopying or working on confidential documents, colleagues must ensure they are not seen by people in passing. This also applies to information on computer screens.
- There are circumstances in which there is a legal duty on HF Mencap to disclose information, e.g. in relation to safeguarding. In such circumstances, the person to whom the confidentiality is owed will be informed that disclosure has or will be made.

## **5. Service users' records**

- HF Mencap keeps information, including personal information, about service users in order to provide safe and effective services. This information is collected, stored and used in accordance with HF Mencap's Data Protection Policy and the latest General Data Protection Regulation legislation.
- Such information will be considered confidential and must not be disclosed, other than in the following circumstances:
  - To enable staff to provide appropriate services to clients.
  - To share information with other agencies and/ or carers, with the agreement of service users.
  - To comply with legal requirements around disclosure, e.g. in relation to safeguarding.
- Confidential Information about service users will be kept in filing cabinets, or on HF Mencap's password protected computer system.
- Service users may have sight of HF Mencap records held in their name.

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## 6. Recruitment and selection

Recruitment and selection is conducted in accordance with the recruitment and selection policy. Specific issues in relation to confidentiality are as follows:

- Application forms, interview records and monitoring forms for job applicants and for successful candidates are confidential. All panel members, whether trustees, staff, volunteers, service users and carers or representatives of external organisations will be expected to maintain confidentiality.
- In seeking references for a new employee, it will be made clear that the information given in the reference can be seen by the prospective employee.
- Completed Disclosure and Barring Service (DBS) checks are confidential and should only be seen by the relevant senior manager and Director. It is a **criminal offence** to pass this information to anyone who is not entitled to see it.

## 7. Personnel records

- Employees' personnel information will be kept in a secure system, either a locked filing cabinet or password protected database.
- Information may include job applications, references, conditions of employment, scheduled hours, and records in relation to sickness and absence, annual leave and disciplinary/ grievance.
- Personnel files will be accessible to the Chief Executive officer, Director or other relevant senior manager. Anyone else needing access to the file as part of their duties must inform the Director or senior manager.
- In an emergency situation, the Director may authorise access to files by other people.

## 8. Supervision records

- Supervision files, including group supervision records will be accessible to the staff member's/ volunteer's line manager and the Director

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- Anyone else needing access to the file as part of their duties must inform the Director or staff member's/ volunteer's line manager beforehand.

## **9. External supervision and advice**

- From time to time, it may be necessary to share confidential information with third parties, e.g. in relation to HR advice, payroll and pensions.
- With the approval of the Chief Executive Officer, it may also be appropriate to commission external supervision to support a staff member.
- Contracts covering this work will specify the confidential nature of the work and will reflect this policy.

## **10. Duty to disclose**

- There is a legal duty to disclose some information such as suspected abuse, drug trafficking, money laundering, acts of terrorism or treason.
- HF Mencap has a duty to refer a previous employee or volunteer to the Disclosure and Barring Service if they have been dismissed or removed as a result of being:
  - Been cautioned or convicted for a relevant offence; or
  - Engaged in relevant conduct in relation to children and/or vulnerable adults i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm]; or
  - Satisfied the Harm Test in relation to children and/or vulnerable adults. [i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists]
- If a staff member/ volunteer believes an illegal act has taken place, or that a user is at risk of harming themselves or others, they must report this to their line manager or the Director who will report it to the appropriate authorities.

- If during supervision a serious disciplinary issue comes to light, it may be necessary to disclose this information and proceed in accordance with the disciplinary and grievance procedure.
- The person concerned should be informed of any disclosure.

### **11. Breach of confidentiality**

- Employees who are dissatisfied with the conduct or actions of other colleagues or HF Mencap should raise this with their line manager using the grievance procedure, if necessary, and not discuss their dissatisfaction outside of HF Mencap.
- Colleagues accessing unauthorised files or breaching confidentially will face disciplinary action. Ex-employees breaching confidentiality may face legal action.

### **12. Whistleblowing**

- HF Mencap recognised the rights of employees not to suffer detriment or be unfairly dismissed as the result of speaking out about crime, fraud, miscarriages of justice, dangers to health and safety, breaches of civil service code or risks to the environment.
- See the whistleblowing policy for more information.

### **13. Related legislation and helpful guidance**

- The HSCIC Guide to Confidentiality 2013 – A helpful guide to care workers what they should do and why, to share information safely while following rules on confidentiality. (<https://digital.nhs.uk/data-and-information/looking-after-information/data-security-and-information-governance/codes-of-practice-for-handling-information-in-health-and-care/a-guide-to-confidentiality-in-health-and-social-care>)
- The General Data Protection Regulation (GDPR) 2018.

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#### **14. Related policies**

- Data protection policy
- Whistleblowing
- Safeguarding policy
- Code of conduct

#### **Procedure for breaking confidentiality**

Only in exceptional circumstances, such as the following, should confidentiality be broken:

- a threat to life
- physical, sexual, financial or other abuse to or by another person (adult or child)
- a health and safety risk to other people in the workplace
- a disclosure required by law or a court order

Because breaking confidentiality is a serious matter, the following procedure should ideally be followed prior to disclosure. If, in any discussion, information is being given which the HF Mencap employee/volunteer believes may have to be shared with other Agencies:-

- they should stop the conversation
- explain that such information and any further detail that might be forthcoming, could require them to pass it on to outside agencies
- proceed if the informant gives permission under those conditions, confirming that they had given their consent, should further action be needed

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- if permission is refused, terminate the conversation and refer the person to the Line Manager or in their absence to the Chief Executive Officer.
- maintain written records of the process and the decisions taken throughout.

## References

Directline for business (2018) What is breach of confidentiality. Available at: <https://www.directlineforbusiness.co.uk/small-business-insurance/knowledge-centre/tips-for-consultants/what-is-breach-of-confidentiality> (Accessed: 12/10/2018).

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