

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 (i.e. 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 or 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, 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, 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 and gender of service users is kept for the purposes of monitoring our equal opportunities policy and also for reporting back to our funders.
- 4.7 Information about volunteers, students and other individuals will be kept in a filing cabinet by the Service Manager directly responsible.
- 4.8 Employee's 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 Operations Director in a lockable filing cabinet. The information within these files should 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, i.e. 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 (e.g. 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 i.e. 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 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 Services department
- 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 client 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 client's knowledge.

9.4 Every effort will be made by the NSM worker to encourage the client to cease or report any illegal act which causes harm to others, and support, if required, will be offered.

9.5 If the client 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 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 client 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)

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 client 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 client 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 safe keeping.

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 Complaint 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 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. Whistle-blowing

NSM's Whistle-blowing Policy allows employees 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 employee 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

Appendix 1

Confidentiality for Counselling Service Clients

North Staffs Mind abides by the British Association of Counselling and Psychotherapy (BACP) ethical codes, and all counsellors are expected to be familiar with and signed up to these.

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– if in doubt seek advice from a senior 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:

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

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

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)

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

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 NSM Suicide Guidelines on working with Suicidal Clients).

Groupwork

Where group-work is taking place, the confidentiality rules in the group must be made explicit to the participants in the ground rules, 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 successful and safe environment being established.

Appendix 2

Release of information to third parties

Written requests

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

It is explicit in the adult client agreement 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. If the caller is insistent, the receptionist 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 direct 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

North Staffs Mind

Recording of Counselling Sessions

North Staffs Mind (NSM) recognises that the recording of counselling sessions sometimes needs to be undertaken in order to ensure counsellor competence, and to aid in counsellors' development. Counsellors may be required to provide a recording for supervision purposes, and training institutions often require recordings from trainees.

NSM recognises the importance of the therapeutic alliance between the counsellor and client and as such the client's wishes in this area take precedence over any and all requirements of supervision and training providers. As such if a client refuses a request to record a session this should be respected and no further requests made.

It is expected that all counsellors requiring to record a session with a client will inform their line manager of their need to make a recording and gain formal written consent from their client. The following guidelines are to help you in this process.

1. Recordings can be heard by the counsellor's supervisor/training institution tutor and external verifier.
2. Recordings cannot be used in peer assessment sessions. A transcript, with suitable editing to allow for the removal of names and identifying details, can be used for this purpose. Anyone found to use recordings in these sessions will jeopardise their placement.
3. Client permission must be sought and their consent must be fully informed. It is expected that you will use the attached form for this purpose.
4. The purpose to which the recording will be put, and details of who will hear it must be clear to the client. The normal client/counsellor/supervisor boundaries of confidentiality are being extended and this must be put over to the client.
5. The client must be made aware that the recording process may affect the dynamics of the relationship.
6. The client has every right to refuse, and such a refusal will be respected and no further requests made.
7. It must be emphasised to the client that the supervisor/tutor is monitoring the counsellor and the focus is not on the client.
8. The person(s) who is to hear the tape must be named wherever possible. We recognise that the external verifier may not be known, but it can be made clear to the client that this will usually be someone from well outside the geographical area.
9. The client needs to agree to a suitable method of disposal once the recording has served its purpose.

10. Checks should be made after the recording that the client is still happy with its use.
11. A written agreement should be completed and held by the counsellor.

Client requests to record sessions.

Occasionally a client may request permission to record a session, although this is an unusual request, it is not unknown. We advise you to speak to the client about their request, its purpose and what will happen to the recording, and then speak to your supervisor and or line manager about this request. If you feel comfortable with the request, having taken into account the effect on relationship dynamics, and your supervisor/ line manager has agreed to it, then you may agree to it.

The process of requesting client's permission:

1. The counsellor should think carefully about the client he/she is considering asking for permission.
Due consideration should be given to the client's vulnerability and the stage of the relationship. The issue should be discussed with the supervisor and line manager.
2. The client should be approached at least a week before the proposed recording in order that the client has time to fully consider the request.
3. The consent form must be signed.
4. Once the recording has been completed the counsellor must check again with the client to see if they still feel happy about the use of the tape.
5. Once its purpose has been met, the recording must be disposed of in the way agreed.

Confidentiality

NSM has a Confidentiality Policy which all counsellors are expected to work within at all times. Any requests to record counselling sessions must fall within the scope of this and the Confidentiality Policy.

Any breach of either this or the Confidentiality Policy will be taken extremely seriously and acted on accordingly.

North Staffs Mind

Recording of Counselling Sessions' Consent Form

Client name:

Counsellor:

1. I agree to counselling sessions being recorded for:

Supervision purposes

Training purposes

2. I understand that the following people will hear the recording:

Name _____

Name _____

Name _____

3. I understand that the recording is solely to assess the counsellor's competence.

4. I request that the recording is disposed of once its use has been met by:

Either

Being destroyed

Or

Returned to me (if I am still in counselling)

Client Signature:

Counsellor Signature:

Date:

Appendix 4

RETENTION OF WRITTEN COUNSELLING 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 data base) will be retained by NSM for a period of three years, after which they will be destroyed.

Adult Counselling Services:

Currently all client data is held on written paper records. This will be kept for a period of three years and then destroyed. NSM is working towards the Adult Counselling Services having a comprehensive data base which will contain all client information.

Younger Mind Services:

All client information is held on a secure data base, is kept for three years and then destroyed. Written paper referrals will be shredded once counselling has ended, unless it is deemed advisable to retain the information. 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 for a period of three years, after which it will be destroyed.

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