



MIND IN CROYDON CONFIDENTIALITY POLICY

1. INTRODUCTION

A Confidentiality Policy is necessary for the following reasons:

- 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 that information.
- 1.2 To reassure clients that good care will be taken with information which they give to Mind employees and volunteers and to be clear as to the circumstances when information can be shared with others.
- 1.3 To provide guidance to employees and volunteers on the extent to which confidentiality is to be preserved, circumstances in which they may breach confidentiality, and measures to be taken for the safeguarding of information.
- 1.4 To assist Mind employees and volunteers to comply with legal and statutory requirements for the disclosure of information.
- 1.5 To reassure clients wishing to make a complaint to or about Mind that the confidentiality of any complaint will be given high priority in so far as this is consistent with the need to investigate the complaint.

2. GENERAL CONFIDENTIALITY STATEMENT

- 2.1 All Mind employees and volunteers are required to respect the right of clients and of other employees and volunteers to privacy and confidentiality as far as possible within the constraints of legal requirements and the safety of other people.
- 2.2 Absolute confidentiality cannot be guaranteed and this will be made clear to clients at the earliest possible opportunity.
- 2.3 Where it is thought necessary to pass on information to another individual or organisation this will be assessed on the basis of their application and full consideration of whether there is a legal duty to disclose information. The client will be advised in writing that information has been requested, and by whom. Where possible, the consent of the person about whom the request has been made will be sought, if at all possible. The client will be advised that they should seek legal advice if they strongly object to information being passed to a third party.
- 2.4 This policy covers not only information given deliberately by the person concerned or by other people about the person, but also information acquired accidentally or through observation.

3. CIRCUMSTANCES IN WHICH CONFIDENTIALITY MAY BE BREACHED

3.1 Legal and Statutory Requirements

The general law does not give an absolute right to confidentiality except where there is a contractual provision to this effect.

Legal and statutory requirements affecting Mind include, but are not limited to:

- i) Reporting notifiable diseases to the Director of Public Health where appropriate.
- ii) Reporting accidents at work, in certain circumstances, to the Health and Safety Executive.
- iii) Replying to certain specific enquiries from Government Departments e.g. Dept. of Employment or Dept. of Social Security, or the Inland Revenue. Not all such enquiries are covered by statutory requirements so a check on the legal status of the request should be made before supplying information.
- iv) Providing names of residents of a house in multiple occupation for Council Tax purposes, if Mind is designated the "responsible person".
- v) Passing on information on terrorist activities and information requested on road accidents involving personal injury, to the police.
- vi) Reporting on trafficking in illegal substances that comes to the notice of Mind staff or volunteers.
- vii) Giving evidence in court if a sub-poena is issued.

3.2 Duty of Care

Mind owes a "duty of care" to the users of its services. It may therefore be necessary to breach confidentiality where a client is acting, or likely to act, in a way that could cause serious harm to him or herself, or put other users at risk.

Mind also owes a more general duty of care towards members of the public. It may be necessary to pass on information to the police or statutory authorities where there is considered to be a serious risk to a particular person or persons, or to the public in general.

Mind employees and volunteers share with all citizens a duty of care towards children and vulnerable adults.

If Mind workers know or suspect that a child is at risk the Social Services Child Protection Unit (or NSPCC) must be informed. If Mind workers know or suspect that a vulnerable adult has been abused Social Services Care Management must be informed in accordance with Croydon's vulnerable adult procedures.

3.3 Giving Information to the Police

There is no absolute duty to provide the Police with information except in the case of suspected or actual terrorism. However Mind in Croydon's policy is that its employees and volunteers have a duty in the public interest not to withhold from the police any information concerning criminal activity of a serious nature. This should preferably be done with the knowledge of the person concerned and whenever possible with their

cooperation but there may be circumstances where the risk to others is too great for this to be advisable or possible.

4. PASSING ON INFORMATION TO OTHERS

4.1 Where there is a legal duty to pass information to others, such information will only be passed after discussion and approval by the Chief Executive or Director of Client Services. Junior staff are not permitted to pass on such information. Where there is no legal obligation but there may be a duty of care to pass on information the decision whether or not to do so will in the end remain one **of individual judgement**. Points for consideration are:

- Is the risk a real one?
- How great is the danger to self or to another person?
- Will the breach of confidentiality avoid the harm?
- Is there no other way of avoiding the harm?

The advice of the appropriate line manager or project leader should be sought and, except where there is a legal requirement to breach confidentiality, a senior staff member (Chief Executive, Director of Client Services) must be informed and they will inform the Chairman.

4.2 Where it is decided that information must be passed on to another individual or organisation the basis on which disclosure is to be made must be clear and unambiguous. Those disclosing the information must first have an understanding as to the intended use of the information requested and by whom.

4.3 Requests from statutory bodies must be submitted in writing, even when there is a legal obligation on Mind to comply with the request.

4.4 We will not pass on personal details (e.g addresses, phone numbers) without consent. However, an offer can be made to pass on or forward messages.

4.5 The process of informing the person and seeking consent need not be followed where the consent of the person concerned can be implied, for example where a reference is requested, where the Dept. of Employment asks for information about a former employee in order to pay benefit or when a service user has signed a disclaimer on a referral form.

5. CARE OF INFORMATION

Mind volunteers and employees will take care:

5.1 Not to be overheard when discussing confidential information on the phone, or with the client or appropriate staff.

5.2 Not to leave information lying around and to keep confidential information in locked filing cabinets when not in use.

5.3 To keep records which include no more than the minimum information required.

5.4 To destroy information when it is no longer required.

6. COMPLAINTS

People who wish to make a complaint either to Mind about another agency or individual or about an aspect of Mind's services or Mind employee or volunteer may be concerned about the confidentiality of information they are giving. The preservation of confidentiality will be given high priority, subject to the exceptions listed above in section 3 and/or if it is necessary to breach confidentiality in order to properly investigate the complaint. The permission of the complainant will always be sought for this but in cases where the welfare of the complainant or other people is seriously at risk it may be necessary to breach confidentiality even if that permission is withheld.

7. ACCESS TO INFORMATION

- 7.1 Clients have a right to see their personal files. Access must be granted under supervision in order to protect the confidentiality of other people's files and/or third party information. It may be necessary for the client to request access in writing and for an appointment to be made. An appropriate staff member should be present in order to answer any questions that may arise. The file may not be removed from Mind premises but documents may be photocopied, on request. A charge may be made for this at the discretion of Mind staff.
- 7.2 When a letter about an individual is written to Mind by a professional or carer the writer should be informed that the client is permitted access to his/her file and their advice sought on what action they wish Mind to take. This could include returning the letter to the sender or, in exceptional cases, keeping the letter in a separate confidential place.

8. OTHER MIND POLICIES

This policy should be read in conjunction with other relevant Mind policies e.g. Complaints Procedure.

9. REVIEW

This policy will be reviewed annually.

Reviewed and updated by the Board of Mind in Croydon February 2010