



## ADVOCACY SERVICE CONFIDENTIALITY POLICY

### Introduction

Confidentiality is the protection of information given by or about an advocacy client working with Mind in Croydon Advocacy Service. Confidentiality is between the advocacy client and the service, not simply between the advocacy client and advocate. This includes how personal information is stored in line with current legislation. It is the responsibility of staff to inform both advocacy clients, external agencies and other third parties of this policy. This considers how information is shared and stored for those deemed to lack the mental capacity, as defined by the Mental Capacity Act 2005.

### 1.0 Sharing information

All advocates will ensure that information received from an advocacy client is kept in a confidential manner. Advocates should be aware of their responsibilities in relation to safeguarding (see Mind in Croydon Safeguarding Adults and Safeguarding Children & Young People Policies). Advocates will discuss confidentiality with all new advocacy clients and give clear examples of where confidentiality would be broken, as follows:

- Intention to harm self or others, including immediate dangers to life
- Vulnerable Adult issues (Safeguarding)
- Vulnerable children and young people issues (Safeguarding)
- Intention to break security rules such as an intention to abscond from an in-patient ward
- Intention to commit a crime, including possession of illegal substances
- Acts of terrorism

1.1 If an advocate feels that they may have to disclose confidential information they must bring this to the attention of their manager (if time permits beforehand or immediately after the disclosure has taken place). If it is decided that the information must be disclosed,

the advocate will firstly inform the advocacy client and allow them the opportunity to disclose the information. If the advocacy client is unwilling to do this the advocate will bring the information to the attention of the appropriate person. If it is not possible to contact the advocacy client prior to disclosure they will be informed of that disclosure as soon as possible after the event.

1.2 If information must be disclosed in the interests of adult safeguarding, this decision will be made by the advocate at the time, who may wish to consult their line manager on the matter if unclear. All team members receive annual safeguarding training and can identify when information disclosed warrants overriding advocacy client confidentiality. Approaches to raising that safeguarding alert will differ depending on the setting the advocacy client is in at that given moment.

- Inpatient - Where information is disclosed to an advocate on a secure inpatient psychiatric unit, this information will be handed over to the nurse in charge of that shift identifying it as a safeguarding concern. The advocate will also send a secure email to the nurse in charge to confirm in writing the safeguarding concern shared along with all relevant information.
- Community – where information is disclosed to an advocate working outside of hospital settings, this information will be handed over to the advocacy clients' community mental health team, confirmed in a secure email so there is a written record of that information being passed onto statutory service providers. Where the individual is not currently treated by community mental health services, advocates will escalate this by making a referral to Croydon's Council safeguarding team, as follows:
  - Adult safeguarding: [Report abuse of an adult | Croydon Council](#)
  - Child safeguarding: [Concerned about a child? | Croydon Council](#)

A record of the decision to override confidentiality and action taken will be recorded within the advocacy service's secure database along with any follow up actions.

1.3 Advocates will work with advocacy clients who are deemed to lack the mental capacity (deemed under the Mental Capacity Act 2005) to consent to information being shared. In this instance the advocate is to ensure that steps are taken to ensure that information received is kept in a confidential manner and to take appropriate action to break confidentiality to safeguard vulnerable adults, where necessary, (refer to Safeguarding Adults policy and exceptions listed above).

1.4 Information concerning an advocacy client will not be shared with other services of Mind in Croydon unless there is a requirement to do so by line management to address risk minimisation to staff.

## **2.0 Process of disclosing information to Third Parties**

2.1 Third parties, in this context include statutory and voluntary agencies, advocacy clients' friends and families. Third parties should not pass on information relating to a client of Mind in Croydon's Advocacy Service that they are not happy to be shared with the advocacy client. There may be exceptional circumstances where information is revealed to an advocate by clinicians or through accessing patient records, which the advocacy client is unaware of and a decision is made to withhold that information from the advocacy client. This would be judged on a case-by-case basis in discussions with the Advocacy Service manager, the criteria for doing so would be:

- If the information is sensitive in nature and clinicians advise revealing this in an unplanned way would cause undue mental distress to the advocacy client and adversely affect their mental health.
- The clinical team have already planned to reveal this information to the advocacy client in the near term.
- It would compromise the confidentiality of a third party who has not consented to this disclosure
- The withholding of this information falls in line with the Department of Health supplementary guidance on access to patient records under section 130B of the Mental Health Act 1983, specifically sections 3.1, 3.2, 4.4, 4.5 and 5.9. See: [Mental Health Act 1983 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1983/36/section-130B)

2.2 Information given to staff by advocacy clients will be treated in confidence and will not be disclosed to external agencies/ third parties without the express consent of the advocacy client.

2.3 In relation to advocacy clients who are judged to lack the mental capacity to consent to sharing information (as assessed under the Mental Capacity Act 2005), information will only be shared with third parties that is necessary and proportionate for the advocate to carry out their role in relation to the advocacy client. Similarly, the advocate will accept information from third parties that is necessary and proportionate for them to carry out their role. All the information shared and received will be kept in a confidential manner (see exceptions above). The advocate will inform the third party if any inappropriate or unnecessary information has been shared on behalf of an advocacy client and will dispose of this immediately.

When making decisions for sharing information where a person cannot provide consent, the advocate will refer to the best interest decision making framework of the Mental Capacity Act 2005 to inform their practice and to make best interest decisions. This is in accordance with the Mental Capacity Act 2005, best interest principles and checklist.

2.4 In the event that the Advocacy Service requires the use of external supervisors, these will be deemed to be employees of Mind in Croydon's Advocacy Service and subject to this policy. Information that is revealed in the context of supervision will not be shared with the organisation. See exceptions above. Confidentiality is clearly explained when using any third party to help with communication, (e.g. a community language interpreter, sign language interpreter or family member), advocacy client consent will be sought and recorded.

### **3.0 Data Protection**

3.1 in line with the Mind in Croydon Privacy Policy UK GDPR, all information received will be kept on the secure advocacy database which is password protected. Only the advocacy team have access to this database to ensure that service user information remains confidential within the team and in conjunction with the advocacy principle of confidentiality.

3.2 Service user information is *'not kept longer than necessary'* in serving its purpose. Any confidential paper waste is disposed of using a shredder within the department.

3.3 This policy is to be read alongside Mind in Croydon's Privacy Policy UK GPR.

3.4 Advocates will explain to service users in their initial meeting that they have the right to access any records/information held about them by making a subject access request. This request must be put in writing and the service user can expect to receive this information within the next 40 days.