

### **Legal Reference**

- 1.0 **Regulations 12, 16 & 17 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014**

### **Outcome Statement**

- 2.0 **Service users receive safe and coordinated care, treatment and support where more than one provider is involved, or they are moved between services.**

- 2.1 **This is because we comply with the regulations and will:**

- Cooperate with others involved in the care, treatment and support of a service user when our responsibility is shared or transferred to one or more services, individuals, teams or agencies.
- Share information in a confidential manner with all relevant services, individuals, teams or agencies to enable the care, treatment and support needs of service users to be met.
- Manage, store, transfer and share information in a way which ensures confidentiality of that information
- Work with other services, individuals, teams or agencies to respond to emergency situations.
- Support service users to access other health and social care services that they may need.

- 2.2 We will only share information about service users with others if the service user has given their permission, or where the law requires us to.

- 2.3 We will ensure that confidential information is held securely on service users behalf and they can access it at any reasonable time in accordance with the General Data Protection Regulations 2018.

### **Policy Statement**

- 3.0 Service users can be confident that when their care, treatment or support is provided by more than one service, or is transferred from one service to another, this is organised so that:
- A lead person is identified who is responsible for coordinating the care, treatment and support of the service user.
  - The service user is aware of who the lead is and how to contact them.
  - The care plan includes any arrangements for transfers between services.
  - Each of their assessed needs is met by the service that is accountable for doing so; ensuring, in total, that all those needs are met.
  - All those involved in the care, treatment and support of the service user:
    - a Cooperate with the planning and provision of the service
    - b Have the documented care plan available to them

- c Have relevant information about the service user available to those involved.
- d Record detail of the care, treatment and support they have given
- e Enable this information to be accessed to ensure that the needs of the service user continue to be met.
- f Maintain clinical and professional confidentiality in relation to information held, stored or shared.

3.1 Service users can be confident that when information about them needs to be passed to another service this is organised so that:

- The information includes everything the other service will need to ensure the needs of the service user are met, even in an emergency.

As a minimum this includes:

- a Their name
- b Gender
- c Date of birth
- d Address
- e Unique identification number where one exists
- f Emergency contact details
- g Any person acting on behalf the service user - with contact details
- h Records of care and treatment provided up to the point of transfer
- i Assessed needs
- j Known preferences and any relevant diverse needs
- k Previous medical history that is relevant to the person's current needs, including general practitioner's contact details
- l Any infection that needs to be managed
- m Any medicine they need to take
- n Any allergies they have
- o Key contact in the home that the service user is leaving
- p Reason for transferring to the new service
- q Any advance decision
- r Any assessed risk of suicide / homicide or harm to self and others.

- The information is transferred in a timely manner to ensure continuity of services.
- The information is transferred in a way which maintains confidentiality at all times.

3.2 Service users can be confident that when more than one service is involved in their care and treatment it is organised so that:

- Those involved understand who is responsible for each element of care, treatment and support to be delivered.
- Each service respects the confidentiality of information but not in a way which hinders or prevents the safe and effective delivery of care, treatment and support.
- Each service is involved when the care plan is reviewed.

- Where appropriate, those involved discuss together the care plan for the service user.
- It takes into account relevant guidance, including that from the Care Quality Commission which may from time to time be published.

**3.3 Service users benefit from a service that:**

- has a planned and prepared response to major incident and emergency situations. This response includes arrangements for sharing information with other providers in confidence, provision of mutual aid and arrangements for engagement with appropriate emergency planning and civil resilience partners across the local area.
- Is aware of and has arrangements in place to respond to requirements made in relation to the home by the Civil Contingencies Act 2004.
- Reviews all of the plans that are in place and consults with others if required.

**3.4 Service users know that when more than one service is involved in their care the transfer of information is organised so that:**

- The confidentiality of people who use services is protected.
- Information is transferred safely and securely.
- The way in which information is documented, copied, stored and transferred to others has been agreed in line with laws that relate to the safe handling of information.
- Staff know the ways that are acceptable for transferring information.
- Information is transferred that:
  - a Is relevant to the continuing safe delivery of care and treatment
  - b Is factual, correct and does not include subjective opinions
- Can be shared in line with the Data Protection Act 1998 and the General Data Protection Regulations 2018.
- Staff notify the home manager if information has been lost or transferred incorrectly.
- There are procedures about the action to be taken when confidential information is inappropriately shared, stored or is lost. These procedures include the requirement to inform the service user if their information is so affected or lost.
- When information relates to a safeguarding allegation, or where disclosure is in the wider public interest for another reason, the disclosure is made in accordance with relevant legislation and guidance. As far as possible the consent of the person(s) whose information is to be disclosed will be obtained.
- Where the manager cannot obtain consent, they are clear about the reasons and the necessity for sharing.

**3.6 Service users know that they can request information to be transferred to another party and the home will follow this request unless there is a good reason why they**

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should not or cannot. If so, that reason is fully explained.

#### Procedure

- 4.0 Each service user should be given a copy of this procedure as part of the admission process. This is in line with the manager being able to provide clear written information to the service user so as to make appropriate decisions about the performance and suitability of the home.
- 4.1 The manager should ensure that information, which is classed as confidential, is placed in a secure location where access can be restricted to those people who have the right to view the information.
- 4.2 The manager is responsible for ensuring that, apart from staff and the service user, access to confidential information is restricted to allow only those people for whom each service user has given permission.
- 4.3 If a service user who has "Capacity" refuses permission for a person to access information relating to them, the manager should not attempt to overturn or override the decision. To do so may constitute a breach of the service users basic human rights and is an offence.
- 4.4 The only circumstance where a service users refusal to access information can be overruled would be where the law requires such access. This would include instances where the manager is made aware that a criminal act may have been committed. It also includes requests to access information by an Inspector from The Care Quality Commission.
- 4.5 The manager is responsible for including "Confidentiality" as part of the induction process for new staff.
- Each new member of staff should be given a copy of this procedure as part of their initial induction package.
- Each new member of staff should receive a clearly written Job Description describing their duties and responsibilities in relation to confidentiality as they apply within the home.
- 4.6 Areas considered for classification as confidential may include:
- Paper based records
  - Computerised systems – this includes word processors, "palm tops", laptops, "notebooks", "I Phones" and "tablets".
  - Recruitment information
  - Other staff records – including Appraisal and Supervision.
  - Disciplinary records and complaints files
  - Business plans and market sensitive information
  - Any service user records
  - Conversations held or heard
- 4.7 **Definition of Confidentiality –**  
There are two forms of confidentiality:
- **"Relative Confidentiality"**  
Information held or supplied is used in a responsible way. Information is used for the benefit of individual staff members or service users concerned. There are systems in place which safeguard and minimise the risk of misuse.

➤ **“Absolute Confidentiality”**

Information is never recorded or documented in any form

Information is not discussed, commented on or shared.

It is a very difficult form of confidentiality to promote, examples of which are:

- a. Doctor / patient confidentiality (although some notes may exist)
- b. Parish Priest through the confessional

4.8 The manager is responsible for ensuring that service users are aware that “Absolute Confidentiality” cannot be guaranteed.

4.9 All records should normally remain within the home.  
If records need to be taken or sent to another location the manager should ensure that a suitable, safe and secure method is used.

Fax transmissions are not considered safe for confidential information as there is no guarantee who will receive the document at the recipients end.

E-Mail is not considered to be secure for confidential items unless the recipient is able to ensure security of receipt at their end.

4.10 Where records or post is marked “Private and Confidential”, the item should not be opened or shown to anyone other than the addressee.

4.11 Records held on computer (or other electronic storage and retrieval system) should be protected by an effective back up and retrieval system.

4.12 The manager should ensure that any back up system maintains the security and integrity of the originals and additionally ensures that these copies are erased or destroyed when no longer required.

4.13 Computer screens should never be left unattended with service user or other sensitive information on the screen.

The use of screen savers and “sleep mode” systems should be promoted.

4.14 The manager may consider the use of password protection for files, folders or drives on the computer as a means of preventing unauthorised access to information.

4.15 The manager should ensure that information held is stored in line with the requirements of the Data Protection Act 1998 and the General Data Protection Regulations 2018.

4.16 Under normal circumstances information should not be given over the phone unless:

- The service user or staff member gives their permission
- In an emergency to 999 call centre staff
- Where requested by a care professional in respect of the care of a service user whose identity is known and is involved in the care of the service user.
- If there is no other practical means of passing information.

4.17 In such cases the senior member of staff on duty must be satisfied that the person receiving the information has been able to properly prove their identity.

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- 4.18 Staff at all levels must be aware of the potential breaches of confidentiality that can occur during casual conversations.  
Some service users will try to illicit information about another service user from staff and everyone should be aware that what they say, how they phrase it and the tone of their voice may be misinterpreted by others.

In order to minimise risks, staff should:

- Not talk about another service user in conversation with other service users.
- Not conduct confidential or private conversations in corridors or communal areas.
- Not conduct handover meetings with service users present
- Not discuss service users outside the home with people not employed in the home. They are not bound by the same rules of confidentiality as staff are.

### The Following Evidence Will Demonstrate That The Required Outcomes Are Being Met And Relevant Standards Achieved

- 5.0 There is evidence that:
- Staff in the home have undertaken training in confidentiality
  - When asked, staff can explain the difference between “absolute” and “relative” confidentiality
  - Personal records for staff and service users are kept in lockable cupboards or cabinets
  - Where information is passed outside the home for analysis (e.g. to head office) these records are “anonymised” so as not to identify an individual by name
  - Service users confirm that they have been given a copy of this procedure

### Training Required

- 6.0 Staff should be aware of the following:
- What is confidentiality?
  - Induction and foundation training should cover service user and personal confidentiality.
  - What is the difference between “absolute” and “relative” confidentiality?
  - What other agencies or service may require access to information at some point?
  - What are the confidential matters in relation to the home which must not be divulged?

### Forms And Referenced Documents For This Procedure

- 7.0 Reference - Data Protection Act 1998 and the General Data Protection Regulations 2018.
- 7.1 Form 010 - Communication Book
- 7.2 Reference - Statement of Purpose