

## **Confidentiality Policy and Procedure – Working Guidelines**

### **The Need and Context**

Confidentiality is an essential part of our counselling service for young people. It reflects our valuing of young people's rights and integrity and recognises their emerging autonomy, thus supporting their ability to take control and make their own life choices and decisions. However we recognise that absolute confidentiality can never be offered.

Our Confidentiality Policy and Procedure, along with our Child Protection Policy and Procedure aim to provide counsellors, clients, and other agencies with a clear understanding of;

- the issues around confidentiality
- the circumstances under which a counsellor may need to break it
- the procedure for doing so.

### **Maintaining Confidentiality**

- 1 Confidentiality must be respected at all times, and the Confidentiality Policy should be displayed in OTR's promotional literature and on the premises. There is also a list offering examples of situations where confidentiality may be broken. This list cannot be definitive as decisions will generally depend upon the individual circumstances of each case.
- 2 Clients are to be made aware of the Confidentiality Policy. All staff involved are responsible for ensuring that young people are clear from the start about the level of confidentiality that the service is able to offer. It is not enough to say simply that a service is "confidential", as this may lead to an expectation of confidentiality which cannot in reality be guaranteed. Clarity is essential both in terms of forming professional boundaries, and in giving young people a choice in what they do or communicate to an agency. It is useful to give clients a chance to question the policy and formalise this process. It is also recognised that contract making is an ongoing and changing process but which has certain agreed circumstances in which confidentiality will be broken.
- 3 Clients are to be made aware that there is a supervision system and that outside supervisors are also bound by this policy.

### **Record-Keeping**

- 1 Off The Record will not give information about clients to other professionals or agencies unless consent is given by the client, or extreme circumstances necessitate it. (see Confidentiality Policy).
- 2 All information about an individual must remain within Off The Record. Files should not be removed from the building unless consent is given by the Counselling Co-ordinator. The only exception to this is that files may be taken off the premises for purposes of supervision. Due care must be taken to safeguard them when they are off the premises, and they must be returned to OTR within one week.
- 3 Messages on the answering machine are exclusively for staff and should not be played when clients might hear them. Telephone conversations regarding clients are also to be taken in private.
- 4 All referral letters or reports must be seen by the client prior to submission to the relevant body.
- 5 Clients are entitled to see all written records pertaining to them and this should be kept in mind when counsellors are writing their notes.
- 6 Written information about clients (e.g. letters, referral sheets, or files) must not be displayed where people other than Off The Record staff are present. When the project is unoccupied all information will be stored in locked filing cabinets or drawers.
- 7 Client records will continue to be held in confidence after the counselling relationship has

ended, or in the event of a client's death. Records will be retained for six years before being shredded.

### **Use of Information for Research, Funding and Publicity**

- 1 Any information used by the agency will be presented in statistical format, thus ensuring confidentiality of clients.
- 2 If information about, or comments by, specific clients is used in any appropriate publication, it will only be with their prior permission and with their anonymity preserved.

### **Staff Training**

The effectiveness of any policy depends on the general understanding and acceptance of all parties concerned with its implementation. As legal responsibility lies with Board of Directors, it is vital that those in this role, as well as the counselling team, are fully aware and understand background content and implications of the organisation's policies. OTR undertakes to:

- 1 offer training to counselling staff in order that they are able to understand the implications of the policy and work within its practice guidelines. It may be useful for members of the Board of Directors to join some trainings, as appropriate, to gain insight into and appreciation of the dilemmas faced by staff.
- 2 In addition to this, counsellors are responsible for familiarising themselves with the policies and procedures, and for seeking advice if they are unclear about any aspect of the policy's implementation.
- 3 Any unauthorised breach of confidentiality, or any failure of counselling staff to discuss issues causing serious concern, will be followed up by senior management.

### **Breaking Confidentiality**

**The only occasion when we would consider breaking confidentiality is if we had reason to believe that serious harm might occur to the client or someone else.**

At OTR the confidential contact is between the client and the agency, and not with the individual counsellor. This means that any decision as to whether to break confidentiality lies with OTR, not the counsellor. Therefore any situation where issues of confidentiality arise must be reported to the Co-ordinator and supervisor as soon as possible, and immediately if deemed necessary. The decision to break confidentiality lies with the Co-ordinator in collaboration with the Trustees, who will preferably make their decision in consultation with the counsellor, the counsellor's supervisor, and the Co-ordinator's supervisor, as the specific situation allows.

In all cases workers are professionally and ethically obliged to explain to the client in detail the possible consequences of involvement by other people and agencies, and to give the client a truthful description of the likely outcome of disclosure. They must then also seek the client's views. Every effort must be made to get the young person's informed consent to break confidentiality. If a decision is made to break confidentiality (with or without consent), the information disclosed should be kept to a minimum, and should be concerned only with the issues at hand, and not extend to other areas of the client's present or past life that are not relevant to the current situation.

### **The Caldicott Principles (revised 2013)**

**In line with OTR's annual accreditation and compliance with the NHS Digital Data Protection Toolkit, OTR used the Caldicott Principles to ensure that information that can identify a client is protected and only used when it is appropriate to do so. The Principles are used as a test in deciding whether organisations need to use information that would identify an individual. The Principles are as follows:**

*Principle 1 - Justify the purpose(s) for using confidential information*

Every proposed use or transfer of personal confidential data within or from an organisation should be clearly defined, scrutinised and documented, with continuing uses regularly reviewed, by an appropriate guardian.

*Principle 2 - Don't use personal confidential data unless it is absolutely necessary*

Personal confidential data items should not be included unless it is essential for the specified purpose(s) of that flow. The need for patients to be identified should be considered at each stage of satisfying the purpose(s).

*Principle 3 - Use the minimum necessary personal confidential data*

Where use of personal confidential data is considered to be essential, the inclusion of each individual item of data should be considered and justified so that the minimum amount of personal confidential data is transferred or accessible as is necessary for a given function to be carried out.

*Principle 4 - Access to personal confidential data should be on a strict need-to-know basis*

Only those individuals who need access to personal confidential data should have access to it, and they should only have access to the data items that they need to see. This may mean introducing access controls or splitting data flows where one data flow is used for several purposes.

*Principle 5 - Everyone with access to personal confidential data should be aware of their responsibilities*

Action should be taken to ensure that those handling personal confidential data - both clinical and non-clinical staff - are made fully aware of their responsibilities and obligations to respect patient confidentiality.

*Principle 6 - Comply with the law*

Every use of personal confidential data must be lawful. Someone in each organisation handling personal confidential data should be responsible for ensuring that the organisation complies with legal requirements.

*Principle 7 - The duty to share information can be as important as the duty to protect patient confidentiality*

Health and social care professionals should have the confidence to share information in the best interests of their patients within the framework set out by these principles. They should be supported by the policies of their employers, regulators and professional bodies

**Further Information**

OTR's Confidentiality Policy, and list of examples.

OTR's Safeguarding/Child Protection Policy and Procedure

BACP's Ethical Framework for Good Practice in Counselling and Psychotherapy

(CMcC updated 06/08/2020 to include Caldicott Principles)

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