

## **Confidentiality Policy**

Adapt (NE) is committed to providing a confidential service to its users. No information given to the organisation will be shared with any other organisation or individual without the user's expressed permission. Individuals with learning disabilities have the same right of control over information about themselves as others. The only limit is their ability to understand the issues involved. Where this is in question, any item of concern should be discussed with the Director.

For the purpose of this policy, confidentiality relates to the transmission of personal, sensitive or identifiable information about individuals or organisations (confidential information), which comes into the possession of the Adapt through its work.

Adapt holds personal data about its Board Members, staff, volunteers, service users, members, etc. which will only be used for the purposes for which it was gathered and will not be disclosed to anyone outside of the organisation without prior permission. There are two exceptions to this.

The first exception is when it is felt that somebody (client or third party) is at risk of harm. In this circumstance, the information can be shared in line with the Protection of Children and Vulnerable Adults Policy.

The second exception is when the information relates to a criminal offence. In this circumstance, the police should be informed. Initially the issue should be discussed with the Director, who will agree actions in relation to informing the police. Written records should be kept in relation to breaking confidentiality to protect someone from harm or because you have a legal duty to inform the police that a law has been broken.

All personal data will be dealt with sensitively and in the strictest confidence internally and externally. Please also refer to the Data Protection and Privacy Policy.

### **Purpose**

The purpose of the Confidentiality Policy is to ensure that all staff, members, volunteers and users understand the requirements in relation to the disclosure of personal data and confidential information.

### **Principles**

- All personal paper-based and electronic data must be stored in accordance with the General Data Protection Regulations and must be secured against unauthorised access, accidental disclosure, loss or destruction.
- All personal paper-based and electronic data must only be accessible to those individuals authorised to have access.
- This policy is to assist Adapt to conform with the law and comply with best practice, whilst promoting the care and welfare of clients and effective operation of all services.
- This policy is to assist Adapt employees and volunteers to comply with best practice when deciding whether to withhold information from a service user.

Adapt (N.E.) must record service users' explicit consent to share information. As a general rule Adapt (N.E.) will always seek consent to share information. It should also be noted that where it is not reasonable to obtain consent at the time a best interest decision will be required under the Mental Capacity Act.

Consent may be obtained in a number of ways depending on the nature of the interview, and consent must be recorded on or maintained with the case records:

- face-to-face
- written
- telephone
- email

Face-to-face / Written: A pro-forma should be used.

Telephone: Verbal consent should be sought and noted on the case record.

E-mail: The initial response should seek consent.

Specific consent for use of any photographs and / or videos taken should be obtained in writing. Such media could be used for, but not limited to, publicity material, press releases, social media, and website. Consent should also indicate whether agreement has been given to their name being published in any associated publicity. If the subject is less than 18 years of age then parental / guardian consent should be sought.

Individuals have a right to withdraw consent at any time. If this affects the provision of a service(s) by Adapt (N.E.) then the Service Co-ordinator should discuss with the Services Manager at the earliest opportunity.

### Disclosure of Information to Third Parties

1. It is an offence to disclose personal information 'knowingly and recklessly' to third parties.
2. It is a condition of receiving a service that all service users for whom we hold personal details sign a consent form allowing us to hold such information.
3. Service users may also consent for us to share personal or special categories of personal information with other helping agencies on a need to know basis.
4. A client's individual consent to share information should always be checked before disclosing personal information to another agency.
5. Where such consent does not exist information may only be disclosed if it is in connection with criminal proceedings or in order to prevent substantial risk to the individual concerned. In either case permission of the Director or Department Manager should first be sought.
6. Personal information should only be communicated within Adapt (N.E.)'s staff and volunteer team on a strict need to know basis. Care should be taken that conversations containing personal or special categories of personal information may not be overheard by people who should not have access to such information.

## Disclosure of Information to Service Users

There is a general duty to disclose to the partner complete details of all communications concerning them. However, there may be exceptional circumstances in which this would not be in the partner's best interests – such a situation must be justifiable as being in the best interests of the partner (in all such circumstances this must be discussed with a line manager at the time or, if this is not possible, as soon as reasonably practicable after an initial decision is taken). This justification must show that either:

1. providing such information would have, or has a realistic potential of being detrimental to the physical or emotional wellbeing of the person concerned; or
2. providing such information would have, or has a realistic potential of being detrimental to the physical wellbeing of a third party; or
3. providing such information would, or has a realistic potential of, interfering with the fair and proper investigation or adjudication of an allegation or complaint. The intention of this is to prevent serious harm, or unjustified interference in proper investigation or adjudication.

It does not provide a rationale for denying partners access to information except in highly exceptional circumstances. Staff and volunteers working directly with Adapt partners should make every effort to ensure that third parties do not disclose information to them that they do not wish to be disclosed to the service user.

## Recording

An accurate written record must be kept of any decision to breach confidentiality. It contains all information relating to the decision. Where there has been consideration of a need to breach confidentiality, details of all information considered, the decision, persons consulted and actions taken should be recorded. In all communication of sensitive and / or personal information Adapt will seek to communicate and record fact not opinion. Data must be held in accordance with Data Protection requirements and other relevant legislation.

## **Statistical Recording**

Adapt is committed to effective statistical recording of the use of its services in order to monitor usage and performance.

All statistical records given to third parties, such as to support funding applications or monitoring reports for commissioners, shall be produced in anonymous form, so individuals cannot be recognised.

## **Records**

In order to prevent unauthorised access or accidental loss or damage to personal information, it is important that care is taken to protect personal data. Paper records should be kept in locked cabinets / drawers overnight and care should be taken that personal and special categories of personal information is not left unattended and in clear view during the working day. If your work involves you having personal / and / or special categories of personal data at home or in your car, the same care needs to be taken.

Any paperwork kept away from the office (e.g. clients case file kept at home by a worker) should be treated as confidential and kept securely as if it were held in the office. Documents should not be kept in open view (e.g. on a desktop) but kept in a file in a drawer or filing cabinet as examples, the optimum being a locked cabinet but safely out of sight is a minimum requirement. Employees needing to take paperwork away from a client's home (e.g. unable to make a required phone call during the visit) must ensure that it is returned to the client's home on the next visit.

If you are carrying documents relating to a number of clients when on a series of visits, you should keep the documents for other clients locked out of sight in the boot of the car (not on the front seat) and not take them into the clients home. When carrying paper files or documents they should be in a locked briefcase or in a folder or bag which can be securely closed or zipped up. The briefcase / folder / bag should contain Adapt (N.E.)'s contact details. Never take more personal data with you than is necessary for the job in hand. Care should be taken to ensure that you leave a client's home with the correct number of documents and that you haven't inadvertently left something behind.

## **Breaches of Confidentiality**

Adapt recognises that occasions may arise where individual workers feel they need to breach confidentiality. Confidential or sensitive information relating to an individual may be divulged where there is risk of danger to the individual, a volunteer or employee, or the public at large, or where it is against the law to withhold it. In these circumstances, consent may not be required to share the information and it may be divulged to external agencies e.g. police or social services on a need to know basis.

If a service user tells a worker something which troubles their conscience or if a worker sees or hears anything that concerns them they should talk to the Director. Where a worker feels confidentiality should be breached the following steps will be taken:

- The worker should raise the matter immediately with the Director and their line manager. If the concern relates to the Director, the issue should be raised with a Board Member.
- The worker must discuss with the Director the issues involved in the case and explain why they feel confidentiality should be breached and what would be achieved by breaching confidentiality. The worker should make a written note of this discussion on the electronic case file.
- The Director will discuss the options that are available with the worker in each set of circumstances.
- The Director is responsible for making a decision on whether confidentiality should be breached. If the Director decides that confidentiality is to be breached then the following steps should be taken:
  - The worker should follow the Protection of Children and Vulnerable Adults Policy to ensure the safety of the service user and / or others .
  - If the Director does not agree to breach confidentiality then this is the final decision and should be recorded on the electronic case file.

- If further information, which concerns the worker, is received following a decision not to breach confidentiality has been made, the information should be shared with the Director for further consideration.

## **Legislative Framework**

Adapt will monitor this policy to ensure it meets statutory and legal requirements including the Data Protection Act, Children's Act, Rehabilitation of Offenders Act and Prevention of Terrorism Act. Training on the policy will include these aspects.

## **Ensuring the Effectiveness of the Policy**

The Board of Trustees will receive a copy of the Confidentiality Policy. Existing and new employees, volunteers and Trustees will be introduced to the Confidentiality Policy via induction and training. The policy will be reviewed every three years and amendments will be proposed and agreed by the Board of Trustees.

## **Non-adherence**

It is important that information divulged is respected. Information should not be discussed with any other person. Breaches of confidentiality to persons outside of Adapt (NE) will be considered as very grave and will result in breaches of this policy will be dealt with under the Grievance and / or Disciplinary Policies as appropriate.

I, ..... agree to abide by Adapt's Confidentiality Policy.

Role: .....

Signed .....

Date .....