



Confidentiality Policy

A Confidentiality Policy is necessary for the following reasons:

- 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.
- To reassure clients that good care will be taken with information which they give to Nottinghamshire Mind employees and volunteers and to be clear as to the circumstances when information can be shared with others.
- 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.
- To assist Nottinghamshire Mind employees and volunteers in complying with legal and statutory requirements for the disclosure of information.
- To reassure clients wishing to make a complaint to or about Nottinghamshire 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.

All Nottinghamshire 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. Absolute confidentiality cannot be guaranteed and this will be made clear to clients at the earliest possible opportunity.

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. The client will be advised that they should seek legal advice if they strongly object to information being passed to a third party.

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.

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 Nottinghamshire Mind include, but are not limited to:

- Reporting notifiable diseases to the Director of Public Health where appropriate.
- Reporting accidents at work, in certain circumstances, to the Health and Safety Executive.
- 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.
- Providing names of residents of a house in multiple occupation for Council Tax purposes, if Nottinghamshire Mind is designated the "responsible person".
- Passing on information on terrorist activities and information requested on road accidents involving personal injury, to the police.
- Reporting on trafficking of illegal substances that comes to the notice of Nottinghamshire Mind staff or volunteers.
- Giving evidence in court if a subpoena is issued.

Nottinghamshire Mind owes a "duty of care" to the users of its services and to its staff. 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 service users or staff at risk.

Nottinghamshire Mind also owes a 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.

Nottinghamshire Mind employees and volunteers share with all citizens a duty of care towards children and vulnerable adults. If Nottinghamshire Mind workers know or suspect that a child is at risk the Social Services Child Protection Unit must be informed. If Nottinghamshire Mind workers know or suspect that a vulnerable adult has been abused Social Services Care Management must be informed in accordance with Nottinghamshire Mind's Safeguarding procedures.

There is no absolute duty to provide the Police with information except in the case of suspected or actual terrorism. However Nottinghamshire Mind'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.

Where there is a legal duty to pass information to others, such information will only be passed after discussion and approval by the CEO. 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?*

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.

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

Nottinghamshire Mind 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.

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.

Nottinghamshire Mind staff and volunteers will take care:

- Not to be overheard when discussing confidential information on the phone, or with the client or appropriate staff.
- Not to leave information lying around and to keep confidential information in locked filing cabinets when not in use.
- To keep records which include no more than the minimum information required.
- To destroy information when it is no longer required.

People who wish to make a complaint either to Nottinghamshire Mind about another agency or individual or about an aspect of Nottinghamshire Mind's services, employees or volunteers 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/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.

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 Nottinghamshire Mind premises but documents may be photocopied, on request. A charge may be made for this at the discretion of staff.

When a letter about an individual is written to Nottinghamshire 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 Nottinghamshire Mind to take. This could include returning the letter to the sender or, in exceptional cases, keeping the letter in a separate confidential place.

This policy should be read in conjunction with other relevant policies e.g. Complaints Procedure, Safeguarding, Reporting of incidents to the Police, Data Protection and Social Media policy.