
Policy name:	CONFIDENTIALITY POLICY
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1 INTRODUCTION

1.1 A Confidentiality Policy is necessary for the following reasons:

- a. To protect people who use our services, and our workers, Trustees, and volunteers from the possibility of information about them being passed on to individuals or organisations who have no right to that information.
- b. To reassure clients that good care will be taken with information which they give to MM workers, Trustees, and volunteers, and to enable them to trust those who are providing a service to them.
- c. To provide guidance to workers, Trustees, 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.
- d. To assist MM workers, Trustees and volunteers to comply with legal and statutory requirements in respect of the disclosure of information.
- e. To reassure clients wishing to make a complaint to or about MM 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.

2 GENERAL CONFIDENTIALITY STATEMENT

2.1 All MM workers, Trustees and volunteers are required to respect the rights of people who use our services and of other workers, Trustees and volunteers to privacy and confidentiality as far as possible within the constraints of legal requirements and the safety of other people.

- 2.2 Absolute confidentiality cannot be guaranteed and this will be made clear to people who use our services at the earliest possible opportunity.
- 2.3 Where it is thought necessary to pass on information to another individual or organisation, this will be on a strictly "need to know" basis. The consent of the person about whom the information is to be passed on will be sought if at all possible, and that person will be told that the information has been passed on and to whom it has been passed, preferably in writing. **See also "Circumstances in which confidentiality may be breached" Point 3.**
- 2.4 This policy covers not only information given deliberately by any individual or by other people about an individual, but also information acquired accidentally or through observation.

3 CIRCUMSTANCES IN WHICH CONFIDENTIALITY MAY BE BREACHED

3.1 Legal and Statutory Requirements

In general, the law does not give an absolute right to confidentiality except where there is a contractual provision to this effect.

Legal and statutory requirements affecting MM include, but are not limited to:

- i) Reporting notifiable diseases to the Director of Public Health where appropriate.
- ii) Reporting accidents at work, in certain circumstances, to the Health and Safety Executive.
- iii) Replying to certain specific enquiries from Government Departments e.g. Department of Work and Pensions 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.
- iv) Providing names of residents of a house in multiple occupation for Council Tax purposes, if MM is designated the "responsible person".
- v) Passing on information on terrorist activities and information requested on road accidents involving personal injury to the police.
- vi) Reporting on trafficking in illegal substances that comes to the notice of MM workers, Trustees, or volunteers.
- vii) Giving evidence in court if a subpoena is issued.

3.2 Duty of Care

MM owes a "duty of care" to the people using our services. 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 others at risk.

MM also owes a more 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.

3.3 Protection of Children and Vulnerable Adults

MM employees and volunteers share with all citizens a duty of care towards minors and people whose mental or physical condition makes them particularly vulnerable.

Children: if MM workers know or suspect that a child is at risk then the Child Protection Co-ordinator, Monmouthshire Social and Housing Services, direct line number 01633644594, must be contacted.

Vulnerable Adults: if MM workers know or suspect that a vulnerable adult has been abused Monmouthshire Social and Housing Services must be informed in accordance with MM's Protection of Vulnerable Adults and Children Policy and Procedure located in each project file of policies and procedures.

3.4 Giving Information to the Police

There is no absolute duty to provide the Police with information except in the case of suspected or actual terrorism. However, MM's belief and practice that its workers, Trustees 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 be done whenever possible with the knowledge and cooperation of the person concerned but there may be circumstances where the risk to others is too great for this to be advisable or possible.

Workers should always seek advice from their line manager before giving information to the police. In the absence of their line manager, workers should consult and follow the guidance on decision making located in each project file of policies and procedures.

4 PASSING ON INFORMATION TO OTHERS

4.1 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 judgement. The opinion and advice of the line manager for the service used by the individual must be sought before confidentiality is breached. If the line manager is not available, workers should consult and follow the guidance on decision making located in each project file of policies and procedures.

Points for consideration are:

- Is the risk a real one?
- How great is the danger to the individual or to another person?
- Will the breach of confidentiality avoid the harm?
- Is there any other way of avoiding the harm?

4.2 Where it is decided that information must be passed on to another individual or organisation, this must be limited to those who need to know. In the case of social and health service professionals this will usually but not always be only those working directly with the individual concerned.

4.3 Requests from statutory bodies must be submitted in writing in all instances. If asked for information by phone or in person, it must be requested that this is put in writing. Email or fax is acceptable if it can clearly identified as coming from the requesting organisation's machines. This applies in all circumstances, including when there is a legal obligation on MM to comply with the request. The exception to this would be if the situation was such that delaying the giving of the information might result in a threat to life, or other serious consequence.

4.4 Where there is no legal obligation to pass on information and breaching confidentiality is not considered appropriate as there is no risk of harm to the client or to others, no information will be passed on without the consent of the client or employee. However, an offer can be made to pass on or forward messages. If consent is given, the individual should be told that information has been passed on and to whom. For MM's protection this information should be given, both to the third party and the person concerned, in writing.

4.5 Generally, 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

Department 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. However, it is good practice to check with the individual before giving the information. Again, such requests and if possible consent should be made in writing.

5 CARE OF INFORMATION

MM workers, Trustees, and volunteers will take care:

- a. Not to be overheard when discussing confidential information on the phone, or with the service user, or with another worker.
- b. Not to leave information where others could easily or accidentally see it.
- c. To keep confidential information in locked non-portable filing cabinets when not in use.
- d. To keep records which include no more than the minimum information needed.
- e. To destroy information when it is no longer required in line with MM's guidance on retention, storage, and disposal of information. This can be found in the project file of policies and procedures.

6 COMPLAINTS

- 6.1 People who want to make a complaint to MM 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. Sometimes, in order to properly investigate the complaint and to take action as a result of the complaint, it may not be possible to avoid a breach of confidentiality. 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.

7 ACCESS TO INFORMATION

- 7.1 Service users have a right to see their personal files or any information we hold on them. Access to written records must be requested in writing. Support to make the request will be offered and provided by an appropriate MM worker, or a worker from some other agency. i.e. an independent advocate, a social worker, a CPN. An appointment will be made for the file to be seen in a private setting. Before the file is seen, any contents originating from outside MM – i.e. a letter from another individual or report from Social Services – must be removed, as it cannot be shown to the service user without the express permission of the sender. This permission could be sought at the request of the

service user. An appropriate staff member should be present in order to answer any questions that may arise. The written record may not be removed from MM premises but documents may be photocopied, on request. A charge may be made for this at the discretion of MM staff.

8 REVIEW

This policy will be reviewed on or before January 2009, or before that if necessary.