CONFIDENTIALTY POLICY & PROCEDURE



Harbour Supported Living Services Ltd

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**Confidentiality Policy & Procedure**

**Introduction**

This is Confidentiality Policy & Procedure for Harbour Supported Living Services Ltd (hereafter referred to as "us", "we", or "our").

**Purpose**

Service Users, their families and staff have a right to believe, and expect, that private and personal information given in confidence will only be used for the purposes for which it was originally given, and not released to others without their consent. The purpose of this policy and procedure is to:

* Ensure that sensitive information is only shared for the purpose of a Service User's wellbeing such as ensuring person-centred care or treatment or protecting the person from abuse.
* Ensure that all information is collected, recorded, stored, shared and disposed of in the best interests of the Service User and staff with regard for their human rights and in line with legislation.
* Ensure the Service User and staff are aware of the organisation’s confidentiality policy and procedure.
* Ensure any staff employed or engaged by Harbour Supported Living Services Ltd will be expected to comply with this policy and procedure.

To meet the legal requirements of the regulated activities that Harbour Supported Living Services Ltd is registered to provide:

* The Health and Social Care (Safety and Quality) Act 2015
* The Care Act 2014
* Freedom of Information Act 2000
* Human Rights Act 1998
* Data Protection Act 2018

**Scope**

This policy includes in its scope all data which we process either in hardcopy or digital copy, this includes special categories of data.

This policy applies to all staff, including temporary staff and contractors.

**Objectives**

To outline the principles related to confidentiality and to support staff in applying these principles.

To establish Harbour Supported Living Services Ltd's approach to ensuring the confidentiality of personally identifiable information.

To inform Service User's, their families, stakeholders and carers about Harbour Supported Living Services Ltd's confidentiality obligations and how we intend to meet them.

Inform staff working for, or on behalf of, Harbour Supported Living Services Ltd of their responsibilities with regards to confidentiality and personally identifiable information and how Harbour Supported Living Services Ltd will enable these to be met.

**Policy**

Harbour Supported Living Services Ltd recognises that we have a duty of confidentiality to its Service User and staff. We believe that respecting an individual's right to a private life which includes confidentiality is important in ensuring a trusting, caring environment where both Service Users and staff are confident that information about them will be protected safely and not shared inappropriately or unnecessarily.

It is the policy of Harbour Supported Living Services Ltd that we will only share information that is in the best interest of the Service User and, with their consent. We aim to comply with the relevant legislation, including the 7 Caldicott principles and Health and Social Care Information Centre (2013) 5 Rules on Confidentiality.

It is therefore our policy that:

* We will share with people, their families and their carers, as far as the law allows, the information they want or need to know about their health, care and ongoing treatment sensitively and in a way they can understand.
* Confidential information will not be used for a different purpose or passed on to anyone else without the consent of the information provider.
* There may be occasions when it could be detrimental to the Service User or to another individual if this principle is strictly adhered to.
* That there is a recognition that breaches of confidence are often unintentional. They are often caused by staff conversations being overheard, by files being left unattended, or by poor computer security. However, the consequences could be equally serious for all concerned.
* Harbour Supported Living Services Ltd will ensure that personally identifiable information will always be held securely and, when used, treated with respect. This rule will apply whether the information is held manually or on a computer, on video or audiotape or smart phone including apps or in a member of staff’s head.
* We respect that a person’s right to privacy and confidentiality continues after they have died.
* All information regarding the people we support will be treated with respect and integrity.
* In general, no information may be disclosed either verbally or in writing to other persons without the Service User consent. This includes family, friends and private carers, and other professionals.
* If in doubt, staff will consult their Line Manager or Data Protection Champion.
* Conversations relating to confidential matters affecting Service User should not take place anywhere they may be overheard by others, i.e. in public places - such as supermarkets, public transport or in open plan areas of an office.
* Written records and correspondence must be kept securely at all times when not being used by a member of staff. Timesheets, rotas, etc. must not be left in unattended vehicles.
* Staff will not disclose any information that is confidential or that, if it were made public, may lead to a breakdown in the trust and confidence that the Service User and their families have in Harbour Supported Living Services Ltd.
* Staff will not pass on any information, or make comment, to the press or other media. Media enquiries should be referred the person responsible for handling any media enquiries.

All clinical staff are bound by their professional code of ethics issued by their relevant licensing body, such as the General Medical Council, The Nursing and Midwifery Council and the Royal Pharmaceutical Society.

**Responsibilities - All staff should ensure:**

* When responsible for confidential information, staff must ensure that the information is effectively protected against improper disclosure when it's received, stored, transmitted and disposed of.
* Confidential information must only be accessed if it is appropriate to the job you undertake.
* Every effort must be made to ensure that the Service User understand how information about them will be used before they supply any confidential information.
* When Service Users give consent to disclosure of information about them, you must make sure they understand what will be disclosed, the reasons for disclosure and the likely consequence/s.
* You must make sure that Service Users understand when information about them is likely to be disclosed to others involved in their care, and that they have the opportunity to withhold permission.
* If you are required to disclose information outside the team that could have personal consequences for Service User, you must obtain their consent.
* If the Service User withholds consent, or if consent cannot be obtained for whatever reason, disclosures may be made only where:
  + They can be justified in the public interest (usually where disclosure is essential to protect the Service User or someone else from the risk of significant harm)
  + They are required by law or by order of a court
* If you are required to disclose confidential information you should release only as much information as is necessary for the purpose.
* You must make sure that the person(s) to whom you disclose information understand that it is given to them in confidence which they must respect
* If you decide to disclose confidential information, you must be prepared to explain and justify your decision. If you have any doubts discuss them with your line manager
* Any queries concerning the Confidentiality Policy and Procedure should be brought to the attention of your line manager in the first instance
* During their induction period, all staff must be made aware of this policy and their individual responsibilities

**Responsibilities – Service Manager and Data Protection Champions**

The Service Manager and Data Protection Champions is responsible for ensuring all workers are advised not to leave documentation in a place where an unauthorised person could gain access to it or discuss people who use our services in a public place.

The Service Manager and Data Protection Champions are responsible for ensuring all written personal records held concerning individuals are kept securely in a locked cabinet. This excludes the Service User's own copy.

The Service Manager and Data Protection Champions are responsible for ensuring that any hard copies of individuals' names and addresses or Employees' names and addresses that have been generated via the computer, e.g.: problem lists, availability lists, etc., must be destroyed in confidential waste. Under no circumstance may such information be disposed of with household/office rubbish

The Service Manager must ensure that all staff understand this policy at the start of employment and its importance is reiterated during supervision or team meetings

The Service Manager along with the Registered Provider must ensure that Confidentiality rules are not used as a barrier to sharing appropriate information and fulfilling Duty of Candour obligations.

**Procedure**

**General Principles of Confidentiality**

* Staff should be aware that the Data Protection Act is not a barrier to sharing information but provides a framework to ensure that personal information about living persons is shared appropriately.
* Be open and honest with the person (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared. Seek their agreement unless it is unsafe or inappropriate to do so.
* Seek advice if you are in any doubt, without disclosing the identity of the person where possible.
* Share with consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgment, that lack of consent can be overridden in the public interest.
* Consider safety and well-being: Base your information sharing decisions on considerations of the safety and wellbeing of the person and others who may be affected by their actions.
* Necessary, proportionate, relevant, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.
* Keep a record of your decision and the reasons for it - whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

**Maintaining Confidentiality**

* All information regarding the people we support will be treated with respect and integrity. In general, no information may be disclosed either verbally or in writing to other persons without the Service User's consent. This includes family, friends and private carers, and other professionals.
* If in doubt, you should consult your Line Manager or Data Protection Champion.
* Conversations relating to confidential matters affecting Service Users should not take place anywhere they may be overheard by passers-by, i.e. in public places - such as supermarkets, public transport, open plan areas of the office, during training or group supervision where other staff not involved in the Service’s care is present.
* Written records and correspondence must be kept securely at all times when not being used by a member of staff. Timesheets, rotas, etc. must not be left in unattended vehicle.
* Rotas should not contain key safe or door entry codes with Service User's name and address.
* Staff should ensure their copy of the rota is confidentially destroyed. It should not be placed in household recycling.
* You must not disclose any information that is confidential or that, if it were made public, may lead to a breakdown in the trust and confidence that the people have in Harbour Supported Living Services Ltd.
* You must not pass on any information, or make comment, to the press or other media. Media enquiries should be referred the person responsible for handling any media enquiries.

**Safeguarding, The Care Act and Confidentiality**

Where safeguarding issues arise and in order to fully understand what has gone wrong, Safeguarding Adult Boards may ask for information to be shared. Decisions about who needs to know and what needs to be known should be taken on a case by case basis, within locally agreed policies and the constraints of the legal framework. However:

Information will only be shared on a ‘need to know’ basis when it is in the interests of the adult.

**Confidentiality must not be confused with secrecy**

Informed consent should be obtained but, if this is not possible and other adults are at risk of abuse or neglect, it may be necessary to override the requirement.

It is inappropriate for Harbour Supported Living Services Ltd to give assurances of absolute confidentiality in cases where there are concerns about abuse, particularly in those situations when other adults may be at risk.

**Rights of all Service Users**

All Service Users may view personal information we hold about them. Local and Health Authorities are not required to give access to information that is ‘hurtful’ or ‘that would breach the confidentiality of another Service User’. Harbour Supported Living Services Ltd's policy is to record information in a way that as far as possible avoids a need for this exclusion. If a Service User believes their right to confidentiality is either being breached or undermined, they must have access to Harbour Supported Living Services Ltd's complaints procedure.

**Rights of All Staff**

All staff may view personal information held by Harbour Supported Living Services Ltd that relates to them, by applying in writing to their Line Manager, where a member of staff believes that their right to confidentiality is being denied.

**Written Records**

* Any record that contains information about an individual should remain confidential unless it is in the public domain. Any records should be factual and should not include the personal opinions of the person writing the records.
* Reproduction of information relating to a Service User (for example photocopying documents) should only be done with the consent of the Service User.
* Confidential information to be posted must be marked 'Private & Confidential, for attention of the addressee only', and sent recorded/special delivery
* Information held within Harbour Supported Living Services Ltd should not be shown to unauthorised individuals or be left where authorised personnel may access them. All record should be kept in a lockable cabinet in a lockable office, with restricted access.
* All written records should be kept securely and only disposed of, by shredding, after appropriate timescales.
* Written information also relates to Key safe numbers and Staff Rotas. Staff must be only provided with key safe numbers if they are directly providing care for the Service User and staff must follow the key safe number policy. Key safe numbers must not be recorded on Service User records for use outside the office or on Rotas supplied to staff. Staff must ensure if they record Service User information to support the delivery of care (e.g., a request to cover an unplanned absence) that the information is recorded safely and securely, and that the information is safely destroyed after use.
* Any rotas must be returned to the office for confidential disposal.
* Any employee who breaches this policy may be subject to disciplinary procedures.

**Telephone - General**

Confidential information relating to any individual, either using our services or working within Harbour Supported Living Services Ltd, should not be given to anyone over the telephone except:

* In the case of an emergency, for example, emergency services
* To relatives and/or advocates as appropriate with the Service User consent
* To a professional involved with and known to the individual, for example GP, Social Worker

Where there is any doubt regarding the right of an individual requesting the information, no information should be given, and advice should be sought from the immediate line manager. This includes key safe numbers or access arrangements.

**Mobile Phones including Smartphones**

Confidentiality must always be respected; not all conversations are appropriate in a public place or in another person’s home.

Staff will be required to comply with Harbour Supported Living Services Ltd's policy on mobile phones.

Where apps are used to support care delivery on smart phones they must be secured with a pin. This also applies to any tablets when used.

**Social Media**

Staff are not permitted to discuss the people who use our services, other employees past or present, or Harbour Supported Living Services Ltd on any social networking site as this may breach confidentiality and bring Harbour Supported Living Services Ltd into disrepute. Staff must also be aware that this applies to taking and posting photographs of Service Users.

This may result in Disciplinary Action.

**Verbal**

Discussions about a Service User or staff member should not take place if the conversation could be overheard or if there are doubts regarding the confidentiality of the other person. Staff must be aware that individuals not employed by Harbour Supported Living Services Ltd are not bound by the same rules of confidentiality.

It would be considered inappropriate behaviour to make reference to another Service User in conversation with any Service User. Staff must be aware that this applies to discussing other Service Users with each other in front of another Service User.

**Electronic Confidentiality Including CCTV**

* Harbour Supported Living Services Ltd will comply with the Data Protection Act and we are aware that if we are processing personal information, we will be required to register with Information Commissioner's Office.
* Personal data must be obtained lawfully, maintained accurately and securely, and used only for the lawful purposes described in our register entry.
* Access to computer files containing personal information is by passwords known to authorised users only.
* Employees are required to ensure that computer screens are not left showing personal data in an area where unauthorised people could read it.
* Printouts, which contain personal data, should be disposed of securely, for example by shredding.
* Service Users and staff may request (in writing) to see the information, which is held about them on computer. All requests for a copy of personal data stored should be made in conjunction with a Senior Manager, if applicable.
* Where CCTV is utilised Harbour Supported Living Services Ltd will consider the CQC document on Surveillance.

**Mental Capacity and Confidentiality**

The Mental Capacity Act 2005 applies to adults without capacity, and further details about the disclosure of confidential information about a Service User lacking capacity can be found in the Mental Capacity Act Code of Practice.

**Definitions**

**Data Protection Act 2018**

The Data Protection Act 2018 is a United Kingdom Act of Parliament that updates data protection laws in the UK. It sits alongside the General Data Protection Regulation and implements the EU's Law Enforcement Directive.

**The Caldicott Report 1997**

Provides guidance to the NHS on the use and protection of personal confidential data (PII), and emphasises the need for controls over the availability of such information and access to it.

It makes a series of recommendations which led to the requirement for all NHS organisations to appoint a Caldicott Guardian who is responsible for compliance with the 6 (original) Caldicott confidentiality principles.

**Common Law Duty of Confidentiality**

Prohibits use and disclosure of information, provided in confidence unless there is a statutory requirement or court order to do so.

Such information may be disclosed only for purposes that the subject has been informed about and has consented to, provided also that there are no statutory restrictions on disclosure.

This duty is not absolute, but should only be overridden if the holder of the information can justify disclosure as being in the public interest, for example, to protect the vital interests of the data subjects or another person, or for the prevention or detection of a serious crime.

**Safe Haven**

A Safe Haven is a term used to explain an agreed set of arrangements that are in place in an organisation to ensure that confidential identifiable information (e.g. patients and staff information) can be communicated safely and securely.

It is a recognised phrase within the NHS but has relevant underlying principles for all community-based services.

**Personal Information**

Personal information is information which can identify a person – in which the person is the focus of the information and which links that individual to details which would be regarded as private. E.g. name and private address, name and home telephone number, etc.

**Sensitive Personal Information**

Sensitive personal information is where the personal information contains details of that person’s:

* Race
* Ethnic origin
* Politics
* Religion
* Trade union membership
* Genetics
* Biometrics (where used for ID purposes)
* Health
* Sex life; or
* Sexual orientation
* Trans/Gender Identity

**Business Sensitive information**

Information that if disclosed could harm or damage the reputation or image of an organisation.

**Public Interest**

Exceptional circumstances that justify overruling the right of an individual to confidentiality in order to serve a broader societal interest.

Decisions about the public interest are complex and must take account of both the potential harm that disclosure may cause and the interest of society in the continued provision of confidential services.

The Public Interest Disclosure Act (Whistleblowing) has more information about this.

**Consistent Identifier**

The Health and Social Care (Safety and Quality) Act 2015 includes a requirement for health and adult social care organisations to use a consistent identifier (the NHS Number) for all data sharing associated with or facilitating care for an individual

The NHS Number is the national, unique identifier that makes it possible to share patient and Service User information across the NHS and social care safely, efficiently and accurately

**Confidentiality**

Confidentiality means that professionals should not tell other people personal things about a Service User unless the Service User says they can, or if it is absolutely necessary.

**Statutory Duty to Disclose**

There are Acts of Parliament which require the production of confidential information:

* Prevention of Terrorism Acts
* Road Traffic Act
* Public Health Acts
* Police and Criminal Evidence Act 1984
* Misuse of Drugs Act 1971

It is essential that there is good justification to disclose confidential information when relying upon an Act of Parliament. Public Health legislation requires the reporting of notifiable diseases

**Key Facts - Professionals**

Professionals providing this service should be aware of the following:

* Professionals can only tell other people your personal information if the Service User says they can or if they have to.
* Professionals can share information without a Service Users consent if there is a risk of serious harm to a Service User or other or there is a risk of a serious crime.
* When someone dies, confidentiality still applies.
* Necessary, proportionate, relevant, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.