



# CONFIDENTIALITY POLICY

## 1. POLICY OUTLINE

This policy aims to clarify Future Living Hertford's (FLH's) position regarding the handling of information relating to its staff, volunteers, clients, service users and any other people that the charity may come into contact with.

Future Living Hertford will honour the relationship of trust it has in regard to the information it holds of its staff, volunteers, training placements and clients. Information held about people will be treated as confidential and not disclosed to third parties unless in exceptional circumstances.

### 1.1 Dissemination

This policy is fundamental to Future Living Hertford's ethos and working practices. It must be read by all paid and voluntary staff members and Trustees. The Policy and Procedures apply to everybody who performs work for the charity in any capacity, and those who come into the offices.

All clients and service users will also be made aware of our confidentiality policy:

- For those attending group sessions, confidentiality will mean that anything discussed in the group environment must remain within the room and not be discussed outside of the premises. The facilitators of such sessions will also keep all matters confidential within the service unless safeguarding or legal issues arise. Information on group-work may be discussed within the charity if it aids programme development, but it will always be anonymized.
- For those attending counselling sessions, confidentiality means that nothing they say will be discussed with a third party unless (a) the counsellor wishes to discuss aspects of their client work in supervision – in which case all information will be anonymized, or (b) there is a legal requirement to do so (risk of harm to self or others, information on drugs trafficking or money laundering offenses or abuse – see Safeguarding procedure for the latter.)

Should a situation exist when a third party, e.g. a supplier, enters the building and becomes aware of confidential material (for example they recognise a client or service user) they too must be made aware of our confidentiality policy and their obligation in performing their task to ensure that our clients' rights to privacy are maintained.

## 1.2 Recruitment and Induction

Our Confidentiality policy will be outlined at the recruitment stage and again during the Induction process for all staff, volunteers and Trustees.

## 2. **SCOPE AND DEFINITIONS**

This policy applies to all employees, volunteers and Trustees of FLH.

The policy is supplemental to current U.K. legislation and guidance. In the case of any contradictions between this policy and current U.K. law, U.K. legislation will take precedence.

This policy should be read in conjunction with the Safeguarding policy and procedures.

## 3. **PRINCIPLES**

All information relating to people that FLH comes into contact with in the course of its operations will be treated as confidential by everybody within the organisation (including those in paid employment, volunteers, Trustees, counselling staff, facilitators and administration staff) unless there are circumstances in which this cannot be achieved (the accompanying procedures will give details of when this may occur). Usually confidentiality will only be breached when there is a legal responsibility to do so.

Project workers may, on occasion, need to discuss clients between themselves to ensure the most appropriate service is provided. Project workers in this instance refer to those staff members who are working with clients and other agencies or a local authority. Counselling staff, either permanent or voluntary, do not fall under this definition as they are working solely with their client.

Whenever FLH deem that it is appropriate to involve a third party the client will be asked to consent (see Confidentiality Procedure Appendix – Consent Form).

## 4. **RESPONSIBILITIES**

All colleagues are responsible for ensuring that confidentiality is maintained throughout the organisation.

Breaches of client confidentiality will be treated as serious offences and should be reported in the first instance to the C.E.O. This may result in disciplinary action.

**5. COMPLIANCE**

It is the responsibility of Future Living Hertford's Trustees, Executive and Strategic Leadership Team to ensure compliance and the effectiveness of the procedure accompanying this policy

**6. RELATED POLICIES AND PROCEDURES**

Safeguarding Policy and Procedures  
Disciplinary Policy and Procedures  
Complaints Policy and Procedures  
Grievance Policy and Procedures  
Whistleblowing Policy and Procedures  
Induction Policy

**7. LEGAL FRAMEWORK**

The Data Protection Act 2018  
NHS Confidentiality Code of Practice (2018)  
The Terrorism Act 2006 (plus amendments to regulations)  
The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017  
The Money Laundering Regulations 2000  
The Drug Trafficking Act 1994



# CONFIDENTIALITY PROCEDURE

## 1. CONTEXT

It is Future Living Hertford (FLH) policy to ensure that information pertaining to its clients, staff and volunteers are not passed on to third parties who have no right to such information. However, it is recognized that information can be passed to third parties under certain circumstances:

- a) if explicit permission is given by the person for whom the information pertains;
- b) when there is a court order to disclose;
- c) It is required to ensure a client's wellbeing or the safety of a third party;
- d) on child protection or vulnerable adult protection matters;
- e) where there is a legal requirement to disclose (e.g. knowledge of acts of terrorism, drugs trafficking offenses, money laundering)

Absolute confidentiality cannot be guaranteed and this point must be made to clients during initial interview. When it is necessary to pass on information this will be on a strictly 'need to know' basis.

All FLH staff, volunteers, student placements and clients are expected to respect the rights of confidentiality of all staff, volunteers and clients. Failure to do so will lead to disciplinary procedures being enacted for staff and volunteers, and in the case of client's possible temporary or permanent exclusion for services (depending on severity of breach).

For the avoidance of doubt, in this procedure the term "counsellor" applies to all paid, unpaid, student or fully-qualified counsellors working for the charity.

## 2. APPLICATION

It is important to note that information to another service cannot be refused by FLH (provided there is client's written consent) unless there are good reasons such as the individual being intoxicated on making the request, or if the organization receiving the information lacks sufficient protocols to protect the client data.

## 2.1 Transfer of Information – Clients and Service Users

The following protocols in place regarding the safe transfer of information between services:

- Personal information should not be transferred on memory sticks or other portable storage device.
- If travelling to a meeting (such as social services case conference meeting) any paperwork pertaining to the client should be carried in a locked and secure bag and not left at any time. In such instances, personal identifier information should not be carried.
- Any transfer of information between services or agencies should remain factual and should not include the subjective opinions of FLH staff.
- Any Information that is passed to another service or agency must only contain information that is relevant to purpose.
- The client is made aware of any sharing of data where possible (See Appendix – Media Consent Form)
- Clients may request a transfer of information to a third party service and this cannot be refused without good reason.

### 2.1.1 Interagency joint working

When sharing information between services it is important to abide by the following principles:

- All information sharing between providers should be sent through a secure electronic portal or shared verbally
- If information is shared over the phone this must be done out of earshot of others who do not have a legitimate right to hear the information
- The person transferring information must be certain of the identity of the individual at the other end of the phone and that they are an appropriate person to share information with.
- Information regarding clients should not be transported on laptops, in paper form or on data sticks.

### 2.1.2 Consent

Information should only ever be shared with the explicit and signed and dated consent of the client (unless there are circumstances which prevent this, i.e. if the counsellor or project worker's safety will be compromised by the break in confidentiality under the authority of statutory duty or if consent is refused when there is a legal duty to report an incident that involves risk of harm – see Safeguarding Procedures).

Consent to share information with the following groups is asked of clients at their initial assessment, but forms should be checked as signed before any information is transferred. Information should not, in principle, be shared without first making the client aware (exceptions are where the personal safety of the counsellor or project worker may be compromised by seeking authority – i.e. this may occur when reporting acts of terrorism, money laundering, drugs trafficking etc).

- Agencies who are providers of drug and alcohol services in Hertfordshire County Council

- Medical professionals
- Social Workers

### 2.1.3 Secure storage

All Hertfordshire County Council Commissioned Services and Statutory Services are required to have policies in place to protect confidentiality. With the transfer of information with other services, FLH is required to ensure an exchange of policies and procedures to ensure compliance with legislature and best practice.

### 2.1.4 What can be shared?

Only pertinent information should be shared with other services (that which is required to meet the needs of the client and/or in reducing risk to self or others).

Non-relevant information should not be shared; for instance, the health needs of a client would not need to be shared with a debt counselling agency.

### 2.1.5 Factual information v subjective information

Only factual information should be shared with other agencies and not subjective information or speculation.

### 2.1.6 Incomplete and incorrect information

From time to time and due to human error incomplete and incorrect information will be recorded in relation to a client. Future Living Hertford has a number of systems in place to minimize the entry of incomplete and incorrect information, including:

- Separate admin staff for the entry of data for the NDMTS, who will clarify data queries with project staff.
- A list of common information/data quality errors by staff members (updated by data input staff for NDMTS) This list is passed to The C.E.O. so that the consistent and persistent mistakes can be addressed individually during supervisions.
- Regular data input quality checks by admin staff on information inputted onto our client management database.

### 2.1.7 Information Lost or Inappropriately Shared by Future Living Hertford

#### Informing the client

If Future Living Hertford loses information regarding a client, or shares it inappropriately, the C.E.O. or designated representative should immediately notify the client along with the contact details for the Information Commissioner's Office (ICO) and a notification of their right to make a complaint.

Full details on the complaints process should be printed out from the ICO website and handed to the client.

#### Internal search and investigation

FLH will undertake a thorough search for any lost information.

Regardless of whether or not the information is found the matter must be treated as a serious breach and raised at the next available Trustee meeting. In any event the

Trustees must be informed by the C.E.O. or designated representative no less than 20 working days from the incident being reported.

Actions resulting from lost or inappropriately shared information

The C.E.O. will lead an immediate investigation into any lost or inappropriately shared material (unless they are the person responsible for losing or inappropriately sharing information, in which case the investigator will be a member of The Board of Trustees). The report should ascertain:

- The series of events that led to the information being lost/inappropriately shared.
- Whether the loss/sharing was at least partly the result of human error and if there is a need to discipline the staff member (see Disciplinary policy and procedure).
- Whether the loss/sharing was as at least partly a result of FLH's procedures, and if so ascertain the measures needed to be changed in order to ensure future compliance.

The report must be presented to The Board of Trustees, no later than 20 days after the event for consultation and ratification.

2.1.8 Other agencies and information issues

It may come to the attention of FLH that another agency has lost or inappropriately shared client information. If this situation occurs, FLH will inform the agency in writing along with a request for an update on remedial actions taken, including informing the client of the problem.

FLH must cease working with that agency until it is able to demonstrate the issue is resolved. If the agency fails to produce a satisfactory update on action taken to remedy the situation within ten working days then the client should be informed of their right to make a complaint to The ICO accordingly. The regulatory bodies that the agency works under should also be informed at this stage.

If an agency passes on incorrect or inaccurate information to FLH then the agency should be informed and the correct information should be provided (note that there is still a requirement to ensure that the explicit and written consent of the client is obtained prior to the sharing of any new information that has not already been covered under FLH's initial assessment/consent process – i.e. if new information has come to light and the client has not already consented for this information to be shared.)

2.1.9 Client request for a transfer of information to another service

If a client requests Future Living Hertford to transfer their records to another service then the C.E.O. or appropriate project worker must be informed prior to any transfer taking place.

At assessment clients must be asked to sign to enable their personalised data to be made available to the Care Quality Commission (CQC) on request for service inspection purposes. Client's wishes should be respected if they refuse to sign.

## 2.2 Transfer of Information – Staff and Volunteers

All records both for clients and staff/volunteers will remain on site at all times. The use of personal laptops and memory sticks and the downloading of personal files to other external sources is not permitted under any circumstances.

## 2.3 Specific instances in which confidentiality codes can be overridden

### 2.3.1 Reporting of criminal activity

Where FLH becomes aware that a crime unrelated to the reason the client came to Future Living Hertford has been committed, the person to whom the disclosure has been made must clarify with the client that although FLH will not break confidentiality, it will not lie on behalf of any client.

The worker (who may be any person connected with FLH and working in a paid, unpaid or Trustee position) should ensure that the client is fully aware of the consequences of their action and present them with an informed choice of actions.

There is no general legal duty to report an offence to the Police except in cases defined by the legislation listed in the accompanying Confidentiality Policy (i.e. acts of terrorism, money laundering or drugs trafficking offences).

### 2.3.2 Risk of Harm or Abuse to self or others

Where a worker has reason to believe that a child or vulnerable adult is at risk of abuse the worker must inform the appropriate Lead Safeguarding Officer (see Safeguarding procedures).

FLH considers that there is a difference in emphasis between abuse which is currently happening or has happened and that which occurred some time in the past. If the information comes from a third party then the worker must put the onus back on that person to release the information to the necessary authorities although after discussion with the client a call may be made to social Services to ensure that this has been done.

For the avoidance of doubt, where a member of staff or volunteer is certain that someone's action/inaction is hazarding another persons safety, life, health, the circumstance should be taken to the Safeguarding Lead or C.E.O. for discussion/action.

### 2.3.3 Medical emergencies

Where a client needs treatment in a situation of medical emergency.

### 2.3.4 Impaired Judgment

Where a worker believes that a client is impaired in their judgment by a mental or physical condition such that information given to them by a FLH worker may harm them. This belief may be based on the client's behaviour pattern and/or on a qualified worker's clinical assessment.

### 2.3.5 Court order or warrant

In the event of a court order or warrant for the release of information on clients. The C.E.O. in conjunction with FLH's legal advisers will be consulted prior to reaching a decision.



## 2.4 The Data Protection Act (2018)

This section should be read alongside FLH's Data Protection Policy and Procedure.

FLH always seeks to comply with The 2018 Data Protection Act to this end:

- The processing of client data is deemed necessary in order to meet statutory monitoring requirements and to also monitor FLH's services and performance. Internal results monitoring assists the charity in making improvements and ensuring that services are tailored to meet client needs.
- All staff and volunteer data is held for personnel and equal opportunities monitoring reasons
- All staff, client and volunteer records are kept in locked filing cabinets and key holders are limited to;
  - For client information – project workers and administration staff on a 'need to know' basis
  - For staff and volunteer information- the C.E.O. and her assistant.
- Whilst sex, age, ethnicity and other such information will be recorded for equal opportunity monitoring purposes, it will only be published as part of statistical information. Personal identifiable information will never be published (unless in the case of client testimonies – with express and signed permission from the client – aliases will be used wherever requested to maintain privacy and confidentiality).
- Data will be processed accurately
- Personal data will be destroyed three years after a client leaves (as it is recognized that whilst ex-clients may return to services – their circumstances will change as time passes so that past information will become less useful in assisting with the provision of support. It is also recognized that there is an ethical consideration in holding personal data for extended periods of time. In addition, all returning clients have new assessment processes so old data is not deemed applicable in many instances.
- Explicit permission for processing client data for monitoring purposes is obtained at the Client Assessment stage.
- Clients should be given access to their personal records within one working week upon making a request. However, FLH remains legal owner of this documentation. FLH may restrict access to information that has been provided by organizations external to FLH and whose confidentiality codes are different to ours.
- All computers are protected and in addition passwords are required to access all databases containing the personal information of clients, staff, Trustees or external stakeholders.

## 3. **CONFIDENTIALITY RULES IN SPECIFIC SETTINGS**

### 3.1 Families and friends

Whilst project workers (those staff members who are working with clients and other agencies or a local authority) may discuss clients between themselves in order to ensure the most appropriate service is provided, where two or more counsellors are

working with two or more friends or members of the same family, information will not be shared between the counsellors except by explicit consent of all parties.

### 3.2 One-to-one counselling

Client disclosures during one-to-one counseling will be held in confidence by the counsellor unless there is a legal duty to disclose that information to a third party. The legislation applying to these exceptions is listed in the accompanying Confidentiality Policy. All counsellors who work in a paid or voluntary capacity for FLH are required to ensure that they keep abreast of changes in the laws pertaining to confidentiality and counselling professionals.

In instances where clarification is required on whether a disclosure needs to be made, the Counsellor is advised to contact their Supervisor in the first instance (FLH does not provide supervision and it is a requirement of the charity that each counsellor has engaged a supervisor prior to commencing client work – see the Induction Guide for further details).

Where the counsellor needs to break confidentiality they must pass the relevant information to the Chief Executive Officer (for any disclosures that fall under legislative requirements to inform a third party) or the appropriate Safeguarding Lead Officer (in the event of a disclosure of abuse/potential harm to an adult at risk or child – see Safeguarding Procedures).

The C.E.O. or appropriate Safeguarding Lead will either complete an Incident Report Form that will be filed in the designated locked cabinet for confidential client information, or will take the action required in the Safeguarding Procedures, depending on the type of disclosure made.

The counselor may also pass information on to a third party offering support or other services, but only with full, explicit and signed permission from the client.

### 3.3 Group work

All clients are expected to sign confidentiality agreements prior to entering into group treatment. Clients are expected to respect the privacy and confidentiality of other clients and not repeat information they see or hear during their time at Future Living Hertford. Failure to do so will lead to temporary or permanent exclusion from services (depending on severity of breach).

### 3.4 Staff

All staff/volunteers are expected to sign a contract when starting work at FLH which includes a confidentiality statement.

## 4. **MONITORING AND SURVEYS**

At assessment clients must be asked to sign for their permission to share some personalised data with the National Drug Treatment Monitoring System (or other national surveys and monitoring systems as applicable) and given the relevant form to provide information on their consent (e.g. the relevant Hertfordshire County Council Fact Sheet). Client's wishes should be respected if they refuse to sign.

FLH may also wish to conduct its own surveys or outcome measurements from time to time – again, client permission should be sought if using any information that may identify a client.

## **5. COMPLAINTS AND GRIEVANCES**

### **5.1 Complaints Process**

#### **5.1.1 Clients/Service Users**

Should a client or service user wish to make a complaint regarding a suspected breach in confidentiality then they should be invited to write to or meet with the C.E.O. in the first instance. Should they wish to make a complaint about the C.E.O. then a Trustee should be informed so that the complaint may be made directly to a Board member. (Trustee contact details are listed on the Charities Commission website).

In cases where the complaint concerns information has been lost or shared inappropriately the appropriate process detailed above (2.1.7) should be followed.

#### **5.1.2 Staff Members**

Staff members are directed to the Grievance procedures.

### **5.2 Escalation**

Confidentiality is taken very seriously by FLH. All complaints will be dealt with as a matter of priority and fully investigated.

Complaints that have been found to be substantiated or that are made against the C.E.O. will be discussed at Board (Trustee) level and will remain as an agenda item until either resolved or appropriate action has been taken in the case of revision of procedures or working practices.

## **6. REVIEW AND COMPLIANCE**

### **6.1 Responsibility**

It is the responsibility of all workers within FLH to familiarise themselves with the contents of these policies and procedures and in the case of those working with clients, to inform them of the relevant processes for handling confidential information, requirements to break confidentiality and the existence of our safeguarding procedures at either the assessment process (for programme service users), or at an appropriate point during the counselling process, usually the initial 'contracting' stage (for counsellors and student counsellors).

Should a concern come to light regarding client or staff confidentiality then the person who first becomes aware of the incident/lapse or the person to whom the concern is first reported (in the case of a client reporting an issue) should ensure that it is passed to the appropriate authority within F.L.H. (identified within these procedures) for investigation.

Lead responsibility for its implementation will rest with the Trustees and the C.E.O.

## 6.2 Review Process

This policy and procedure will be reviewed annually by the C.E.O. and checked to ensure that it complies with legislative requirements. Any staff that become aware of changes to the law that may affect these procedures, or who wishes to make recommendations to enhance the policy is encouraged to do so by email to the C.E.O. in the first instance.

Any major revisions to this document will be submitted to the Board of Trustees for ratification.

# APPENDIX

## CONSENT FORM

# APPENDIX

## MEDIA CONSENT FORM