



MRS INDEPENDENT LIVING

Policy and guidance topic	Confidentiality
Last updated	July 2020
Due for review	July 2021
Appendix	Staff and volunteer confidentiality agreement (to be signed)

Purpose

The purpose of this policy is to set out MRS Independent Living's (MRS) approach to maintaining confidentiality of personal information obtained in the course of our work.

This policy aims to:

- Ensure that the individual privacy and safety of our users is protected.
- Recognise the need for public accountability.
- Ensure that individuals can secure access to any records held by MRS about them.
- Ensure that information about MRS' activities requested by the public from MRS itself or from a regulatory or funding body, does not breach confidentiality principles.

Scope

This policy applies to personal information obtained from beneficiaries and other stakeholders by staff and volunteers in the course of their work. It also applies to personal information relating to individual staff members and volunteers that is held by the organisation.

Other relevant policies include the General Data Protection Regulations (GDPR) policy on the proper handling of personal and sensitive data, and the safeguarding policy.

Introduction

Confidentiality is a broader concept than data protection but there is overlap between the two areas.

- **Confidentiality** refers to all forms of information including personal information about people using services or employees or volunteers, information about the organisation, for example, its plans or finances and information about other organisations, whether the information is recorded or not.
- **Data protection** concerns only personal information which is recorded, whether this be in electronic or manual format.

In the course of delivering our services and running our organisation we gain information about individuals or groups that may be of a personal, sensitive or confidential nature. Information is kept by the organisation to enable colleagues to understand the history and activities of individuals or organisations in order to deliver appropriate and joined-up services.

Whilst information gained may not always be immediately recognisable as confidential, MRS has a responsibility to ensure that all personal information gained through our work is treated with respect and that strict rules and procedures are in place to ensure confidentiality. Staff and volunteers may have to exercise common sense and discretion in identifying whether information is expected to be confidential. This policy aims to give guidance but if in doubt, seek advice from your manager.

Responsibilities of MRS

- As a registered charity and a registered company receiving public funding, MRS is a publicly accountable organisation and therefore required to submit information and records about its activities to statutory bodies, funders and other agencies on a regular basis.
- Individuals also have a right of access to any information held about them by the organisation.
- In certain circumstances (e.g. safeguarding concerns) MRS may have a legal duty to pass on personal information to relevant agencies.

Legislative framework

The legislative framework for information and confidentiality within which we work includes the Children's Act 1989, the Data Protection Act 2000 and the

Freedom of Information Act 2000, which contains certain legal responsibilities for protecting or disclosing information. GDPR was introduced by the EU in 2018 to provide additional safeguards.

Principles

This policy is guided by the following principles:

1. All personal information should be treated as confidential unless the organisation is legally required to pass it to a third party. In such instances the individual on whom information is to be shared will be informed of the necessary disclosure and their rights.
2. Information is confidential to MRS as an organisation and may be passed to colleagues, managers or trustees to ensure the best quality service for users, or to determine the best course of action.
3. Any personal information passed on to funders or regulatory bodies should be checked first for confidentiality issues. If any information is deemed as confidential it must be clearly marked as such together with reasons why it is considered exempt under the Freedom of Information Act.
4. All individuals must give their informed consent before personal information is shared, unless this is done anonymously.
5. Information will be stored for periods defined by legal directive (GDPR, 2018)
6. Confidential information will only be shared with other appropriate employees/volunteers of MRS or with partners or other agencies on the basis of a **genuine need to know** basis, which is defined as:
Where the lack of information has a detrimental effect on the delivery of service, safety of users or has a serious financial penalty/impact or could lead to a breach of legislation or which could otherwise lead to a substantial loss, risk or consequence to the detriment of the organisation.

Confidentiality in the context of safeguarding

There may be safeguarding concerns relating to a person about whom we hold personal information. In these circumstances, staff and volunteers should inform the safeguarding lead to determine the best course of action.

People with mental capacity are in the best position to make decisions about how their personal information is shared. Therefore, there is no legal duty of

the organisation to disclose personal information where the consent of the person at risk has **not** been obtained, except where:

- The person at risk lacks the mental capacity to make a decision, and a risk assessment indicates that referral would be in their best interests.
- Others may be at risk.
- A crime has been committed.

The first recourse is therefore always to try to obtain consent from the individual to share their information with relevant parties. If they have mental capacity and do not consent, confidentiality should be respected.

Breaches of confidentiality

Any breach of this policy by current staff or volunteers may be seen as serious misconduct and could lead to disciplinary action and termination of employment in the case of staff, or immediate termination of the volunteering role in the case of volunteers. Former staff or volunteers who breach confidentiality may be subject to legal action.

Breaches of confidentiality where personal information is concerned may comprise a breach of the Data Protection Act and MRS may receive a significant fine.

Appendix 1: Staff and volunteer confidentiality agreement

As an employee or volunteer of MRS Independent Living (MRS), you may have access to (or may learn of) information of a confidential nature including personal staff, volunteer or service user information.

When someone gives us personal information, they need to be sure that we will not pass this on to anyone else without their prior permission. The only exception to this is if you have been party to any information which raises a concern to you, such as a safeguarding matter. In this case, you will be expected to share this with the nominated safeguarding lead.

Confidentiality statement

I understand that while employed by or volunteering with MRS I may come across information that is confidential. I agree that I will never disclose such confidential information to anyone outside of MRS, subject to the exception outlined above.

I understand breaches of this agreement may be seen as serious misconduct and could lead to disciplinary action and termination of employment in the case of staff, or immediate termination of the volunteering role in the case of volunteers.

Signed:

Print name:

Date: