

# Healthwatch Hillingdon

## Confidentiality Policy - Working with Young People

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## Aims

Healthwatch Hillingdon (HWH) recognises that confidentiality is of the utmost importance to the young people that it works with. This policy is based upon the principle that the young persons' interests, wishes and rights are of fundamental importance.

## Confidentiality Statement

HWH has a strict policy on confidentiality. This means that any information a young person gives or receives will not be passed on to other employees, agencies or family members unless the young person has agreed to this.

The exception to this is if the employee receives information that leads him/her to believe that a child or a young person is at risk of significant harm. Under such circumstances we would aim to share information only with the consent or knowledge of the young person wherever possible.

### **1. Definitions**

#### **1.1 Staff**

**1.12** The rules and policies in relation to confidential information apply to all HWH employees and volunteers. They relate to any information which is accessible to any person within the organisation.

**1.13** The good practice guidelines apply to any person who has regular or direct access to young people or any employee who has access to personal or sensitive information which is kept about young people.

#### **1.2 Confidentiality**

**1.21** A confidential relationship exists where a young person has either a formal or an informal relationship with a professional adult. The essential conditions which must exist for confidentiality are:

- The information must be confidential i.e. not generally accessible to other people or already in the public domain.
- The information must not be useless or trivial.
- The information must have been given in circumstances where the confidant must reasonably have understood that what was said was confidential.

### **2. What information is considered confidential?**

- 2.1 Information may include a young person's address, whereabouts, place of work, income, information regarding relationships, HIV status, health issues including pregnancies, problems, concerns or plans for the future.
- 2.2 The following forms of information should be considered to be confidential:
- Written
  - Letters, case files, reports etc.
  - Oral - Telephone conversations, discussions, verbal exchanges of information, supervision, informal sharing of information.
  - Computer - Disks, both hard and floppy disks.
- 2.3 There are two different types of confidential information. Factual information about young people's age, employment status and where they live may be kept for funding, monitoring and evaluation etc. This information will be considered confidential to the organisation.
- 2.4 Sensitive or personal information will be considered confidential to the employee to whom it has been given and will not be passed on to other employees (see below).

### 3. What are young peoples' expectations?

- 3.1 Young people should expect the following rules to apply to any information they share within a professional relationship.
- That the confidant will not share/disclose that information to anyone else (except under specific circumstances see below)
  - That the information will not be used against them
  - That any records held will be regarded as confidential
  - That their prior consent will be obtained before any information is disclosed to a third party (see also below)
- 3.3 Young people should be aware that, at times, information about their ages employment status and other details may be used for funding applications, research, monitoring and evaluation purposes etc. However they should be assured that such information would be used anonymously.

#### **4. To whom is the information confidential?**

4.1 It will be the responsibility of the employee who has received the information to ensure that it is only used for the purposes that it was disclosed and will not, therefore, be shared with anyone else except on a 'need to know' basis (see below).

4.2 Information will be treated as confidential to the person who received the information and may only be shared with a third party with the knowledge and consent of the young person. This may be for the following reasons:

- Within managerial/non managerial supervision.
- For the safety and protection of other workers and or young people i.e. if a young person has a particular medical condition that other workers need to be aware of (see also below).
- For staff development/training.
- To provide help and support to the young person.

#### **5. Storage of records and confidential information**

5.1 HWH employees will ensure that all records which obtain information about young people will be kept in a lockable filing cabinet.

5.2 Information will not be left lying around on desks, filing cabinets etc. and will be secured out of office hours.

5.3 Information held on disks will be kept in lockable cabinets and information on hard disks will be secured by using passwords or other appropriate security measures.

5.4 Records about young people's personal details that are to be used for external purposes such as annual reports, funding reports, external supervision etc. should be used in a way that avoids individual people from being identified.

#### **6. Access to records**

6.2 Young people have a right of access to records which are held about them as a result of either a formal professional relationship. Under most circumstances young people have a right of access to personal information which is kept on either a computerised system or manual files.

6.3 Full access to such documents should be provided unless the employee considers the young person to be of insufficient age and understanding or is

deemed not be competent (according to the rules of Gillick competency - see Appendix 1 for The Gillick Principle).

**6.4** Where another agency requests access to information about a young person this should only be provided with the full knowledge and consent of the young person, this includes social services, police, parents etc. (See exceptions below).

## **7. Circumstances in which confidentiality will be disclosed**

**7.1** HWH does not operate a policy of absolute confidentiality.

**7.2** There are very few circumstances in which there is a legal duty to disclose confidential information. This includes disclosing to the police that a young person has committed a criminal offence or disclosing a young person's whereabouts. There is however a moral duty if there is reason to believe that a young person is significantly at risk.

**7.3** There are specific circumstances in which information will be passed on to a third party. Wherever possible this will be with the explicit knowledge and consent of the young person, although it is recognised that this may not always be possible.

**7.4** Where it has not been possible to obtain the prior consent of the young person they will be advised of the action that has been taken at the earliest possible opportunity by the worker involved.

**7.5** Disclosure of confidential information may occur in the following circumstances:

- Where the employee has good reason to believe that a child or young person is or may be at risk of significant harm
- Where instructed by the courts, or in specific circumstances the police acting on the authority of the courts i.e. under the Police & Criminal Evidence Act 1984 or acting on a Recovery Order under the Children Act 1989.

**7.6** Such a disclosure will not be made before discussion with the Chief Executive Officer, or in their absence, the knowledge and agreement of the appropriate Board member.

**7.7** Information should then only be passed on to a third party on a 'need to know' basis.

## **8. The 'need to know'**

- 8.1 Where the circumstances suggest that a child or young person is or may be at risk of significant harm a third party may need to become involved. This might be the Area Child Protection Team, police, parents, hospital etc.
  - 8.2 Under such circumstances the employee should disclose only that information which is necessary to safeguard the child or young person i.e. is in their best interest to pass on. This is likely to be information regarding possible or actual sexual, physical or emotional abuse, health issues, HIV status, offending behaviour, suicide, drug taking or prostitution etc.
  - 8.3 Where an employee has good grounds for believing that another child or young person may be at risk of significant harm because of the behaviour or circumstances of the young person with whom they have contact this may similarly be grounds for disclosing information. This might include young people who are parents, or who are threatening the safety of other children and young people.
  - 8.4 The information should have been discussed firstly with the young person, the CEO or the relevant Board member and then with the appropriate third party. It should not be necessary to disclose the information to any other party within the organisation or other agency.
  - 8.5 There is an expectation that other professional agencies will be reasonable and will co-operate in child protection proceedings where the child is at risk of significant harm.
- NB** There is no legal requirement to pass on information at the request of parents where that information has been given by a young person who was deemed to be competent at the time the information was given.

## **9. Where confidentiality is breached**

- 9.1 Where appropriate the young person should be supported throughout any proceedings which follow the disclosure of confidential information - this should be as requested by the young person.
- 9.2 Young people should be given clear information about the reasons for and consequences of disclosing confidential information.
- 9.3 Where confidential information is disclosed for reasons that are not covered in these procedures, disciplinary action may be considered.
- 9.4 There are some circumstances in which a young person may take legal action to prevent the disclosure of confidential information.

## **10. Management of issues associated with confidentiality**

- 10.1** In the first instance the person who receives the information is responsible for it, and for ensuring that it is recorded and retained in a confidential manner.
- 10.2** It is the responsibility of the CEO or Board HR Lead to ensure that all full and part time staff, volunteers and students receive appropriate training and are fully aware of the policy and practice guidelines covering confidentiality.
- 10.3** It is the responsibility of the relevant Line Manager to ensure that young people are made aware of the statement of confidentiality and understand the policy and practice within HWH.
- 10.5** The relevant Line Manager should also take responsibility for monitoring practice within this area and for raising concerns within Team Meetings or supervision, whichever is more appropriate.
- 10.6** Any concerns about confidential issues should be shared with a Line Manager and agreement should be reached about the most appropriate course of action to take.

## **11. Further Information**

For more information see also:

Safeguarding Children Policy (HWH0016)

The Children's Legal Centre Briefing: "Confidentiality: Law and Guidance"  
1998



## Appendix 1 - The Gillick Principle

The Gillick case involved the provision of contraceptive treatment for girls under the age of 16. The House of Lords ruling (1985 3A 11 ER 402) had the effect of permitting doctors to provide medical treatment to children under the age of 16, without parental consent, where they were found by the doctor to be competent (Gillick competent). The decision as to whether or not a child is competent depends on a number of factors, including maturity of the child, the child's understanding of the consequences of his/her actions etc.

Competence must be defined by the professional involved on a case by case basis, it is not acceptable to have a general policy which defines the age at which children will be deemed competent. Where a child is not of sufficient understanding the consent of the parent (or person with parental responsibility) is required. Even if a child is considered to be Gillick competent the professional needs to keep the issue of competence under constant review.