

## **Cork Kerry - Confidentiality and Information Sharing Protocol**

**When to use:** It is recognised that maintaining confidentiality is crucial to the building of a trusting and respectful working relationship with the service user. It is equally important that all parties recognise that confidentiality is never absolute and service users should be given a clear understanding of the limitations to confidentiality at the outset. All agencies should have appropriate policies and procedures in place to legally allow them to share information.

### **Protocol Outcomes**

1. The service user understands issues relating to confidentiality, including their right to privacy, as well as the limits to confidentiality. The service provider must discuss these issues with the service user to ensure this understanding<sup>1</sup>
2. The service user is clear about the processes by which they can consent to agreed personal information being shared amongst different parties to the Interagency Care Plan, as well as how to review and withdraw consent.
3. Services agree a definition of what information is considered appropriate and necessary based on the role and responsibility of staff attending and engaged in the interagency care planning process and the role and function of their agencies.

### **1. Rationale**

Confidentiality is key to working well with service users.

### **2. Purpose**

- To ensure that the confidentiality of service users involved in the Cork/Kerry projects are protected in a consistent and appropriate manner.
- To provide staff and service users with information on the Cork/Kerry regions agreement on confidentiality, guidelines regarding handling of information, the extension of confidentiality and responsibilities for the management of confidentiality.

### **3. Scope**

This agreement covers all employees and service users participating in case management across Cork/Kerry. .

### **4. Glossary of Terms and Definitions**

- Confidentiality - All information that is obtained through the course of organisational business and service provision is confidential. In general, an employee shall not at any time, during or following working with a service user

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<sup>1</sup> Legislation can be accessed at [www.irishstatutebook.ie](http://www.irishstatutebook.ie); Children First: National Guidelines can be accessed at [www.dohc.ie](http://www.dohc.ie); and Information Governance Guidelines can be accessed at [www.hiqa.ie](http://www.hiqa.ie)

disclose such information in any form to any person without the written consent of the service user.

- Extension of confidentiality - In certain circumstances information can be passed on to a third party without the consent of the individual whose information it is.
- Wrongful disclosure – When confidential information is passed on to a third party without permission either by accident, negligence or design.

## **5. General**

- Confidentiality is not absolute and therefore can not be guaranteed. The designated lead agency which employs the appointed case manager is responsible for collecting consent and storing/coordinating information. Individual agencies are responsible for the data collected by them, as each agency would be considered a separate data controller under the Data Protection Acts. All service users are to be made aware of the Cork/Kerry regions confidentiality agreement.
- All service users have the right to have a copy of the relevant information held by services involved in case management in line with the consent provided. Requests for a copy of this information should be made in writing by the service user to the agency from which they wish to obtain their information.
- Information about a service user will not be passed on to any third party except in the following cases:
  - (a) Where written consent has been obtained from the service user.
  - (b) Where there is a legal obligation to extend confidentiality such as a court order to release information.
  - (c) Where the release of the information is in the vital interests of the individual or another individual.
- All service users have the right to withdraw consent for the sharing of information at any time, except where there is a legal obligation for confidentiality to be extended as outlined above.
- All service user files are to be kept in a secure place within the organisation. Workers are expected to exercise care to keeping safe all documents or other material containing confidential information.
- All service users files should be kept in a locked filing cabinet, with the key held only by staff members involved in relevant service provision.
- Agencies utilising electronic storage of information operate as per their existing confidentiality guidelines.

## **6. Roles and Responsibilities**

### **Responsibility of Rehabilitation Co-ordinator Cork/Kerry:**

Ensuring that all core project members are briefed on their responsibilities when dealing with confidential information.

Liaising with individual Project Managers around confidentiality issues.

Liaising with core project team members around confidentiality issues.

### **Project Managers Responsibility:**

Ensuring that a copy of this agreement is available to all his/her staff who are working/involved with a case management approach in Cork/Kerry region.

Ensuring that a copy of this agreement is available to users of the service.

Ensure that all staff confirm they have understood this confidentiality agreement and how it may differ from their projects normal confidentiality policy.

Supporting and supervising their staff in the execution of this agreement.

Ensuring that staff receive any training that may be necessary – Training needs specific to the region should be raised with the Rehab Co-ordinator.

### **Individual's Workers Responsibility:**

To act in accordance with this agreement.

To keep service users informed of their rights regarding confidentiality.

## **7. Informing Service Users**

All service users should be made aware of the following:

- Individual agencies are responsible for the information collected by them. Certain and relevant information will be shared between agencies in line with the consent provided.
- Service Users have the right to a copy of all personal data that is held by each agency in relation to them where requested.
- Circumstances in which confidentiality may be extended. (see point 9)
- Their consent to share information can be withdrawn at any time.
- This information should be given to service users by their keyworker.

## **8. Obtaining Consent to Share Information**

Information held by the case manager and all other agencies which is not independently available to a third party, cannot be disclosed without the individual's written consent.

Consent must be sought in writing using a standardised consent form and amendments should be recorded. The service user should be informed each time information regarding them will be shared with a third party.

The consent form should stipulate:

The third party with whom the information is to be shared.

The timeframe that the consent form applies to.

The organisations covered by the consent form.

The date and signature

The service user should also be verbally informed of:

The third party with whom the information is to be shared.

Whether the third party has a confidentiality policy.

The reason for sharing the information.

That the case manager/agency staff has no control over the information once it is given to a third party.

### **9. Limits to Confidentiality**

Confidentiality is not absolute and cannot be guaranteed. Limits to confidentiality exist to protect workers from withholding information that may require immediate action in the interest of public or individual safety.

Application of extensions of confidentiality will in all cases be decided by the project manager. In their absence this decision will be delegated to the most senior staff person.

The rehabilitation Co-ordinator should be informed of any extensions to confidentiality.

Confidentiality may be extended when a service users discloses that:

- There is a risk of serious harm to self or others. In this circumstance information may need to be shared with Social Work, An Garda Siochana or a mental health practitioner as appropriate.
- Where there is a suspicion/risk of harm to children. The agency should follow the national guidelines (Children First) in relation to reporting the suspected child abuse to social work or an Garda Siochana as appropriate.
- Confidentiality may also be extended as required by certain legal obligations (e.g. court order).

In the event of a disclosure of any of the above, the worker should inform the service user that they may need to report the issue to their project manager. If it is necessary to pass on the information the service users consent should be obtained if possible. If this is not possible, the service users should still be informed of the decision to share information.

### **10. Sharing Information with agencies (non drug & alcohol specific) e,g Social work, probation etc**

- In all cases, requests for information from organisations must be accompanied by a signed consent from the service user to share information. The project manager should be made aware of all requests for information from outside agencies.

- If a service is requested to write a report on a service user – this report would only be written further to a court order or where the service user consents.
- Care must be taken with phone calls in relation to queries around service user to ensure that information is not unintentionally passed on to a third party. Service user attendance or presence in the service should not be confirmed without the service user consent.
- If a staff member becomes aware of pertinent information relating to service user from sources outside of their project, their manager should be informed before the information is passed onto colleagues.
- Staff members called to give evidence in court should contact the Project Manager, who will provide support in this area.

### **11. Wrongful Disclosure**

Wrongful disclosure will be dealt with within projects through their internal structures. The rehabilitation coordinator should be informed of any wrongful disclosures.

### **12. Data Protection Responsibilities**

In addition to the duty of care regarding confidentiality outlined above, the Data Protection Acts imposes legal obligations on the Cork/Kerry project and on the constituent services. The following eight Data Protection principles apply to the Cork/Kerry project regarding information.

1. Obtain and process information fairly.
2. Keep it only for one or more specified, explicit and lawful purposes.
3. Use and disclose information only in ways compatible with these purposes.
4. Keep it safe and secure.
5. Keep it accurate, complete and up-to-date.
6. Ensure it is adequate, relevant and not excessive.
7. Retain for no longer than is necessary.
8. Allow individual's access to their personal data, on request.

### **13. Email, Fax, Social Media and Phone Usage in Relation to Confidentiality** **Phone usage**

Care should be taken not to unintentionally disclose information when communicating by phone. Confirmation that an individual is attending the service to a person who has not

been covered through consent to share information, could be considered a breach of confidentiality.

### **Fax usage**

Faxed messages containing sensitive case information should only be sent to specified individuals at confirmed numbers. All faxes should contain cover sheets stating the person whom the fax is intended for. Receipt of fax should be confirmed by phone. Using pre-programmed numbers on the fax machine is preferable to dialling the number every time.

### **Email usage**

Any information from which a service user could possibly be identified should not be sent via email.

### **Social media**

Staff and service users should not form relationships through social media (e.g. accepting friend requests on Facebook) as this can lead to inappropriate information sharing.

## **14. Client Request for Information**

If a service user wishes to have access to their file, they need to complete a written request. Requests for a copy of this information should be made in writing by the service user to the agency from which they wish to obtain their information. Staff can assist with this.

The request will be processed by the Project Manager with that agency who will respond to the request within ten working days. In such cases care will be taken to ensure that any information relating to other individuals that is held within the service user's file (i.e. in letter from an external agency that relates also to other family members) is blanked out.