**[INSERT CLINIC NAME]**

**Confidentiality Policy**

## 1 Introduction

Confidentiality is a fundamental principle of [name of clinic]. This guidance is designed to help volunteers apply the principle in a range of different circumstances. It cannot cover every possible situation and volunteers should contact their supervisor if further clarity is required.

## 2 The principle of confidentiality

[Name of clinic] provides a confidential service to clients.

Nothing learned during the course of dealing with a client (including the fact that an enquiry has been made) will be passed to anyone outside the service without the client's express permission (other than in exceptional circumstances)\*.

* Interviews are held in visual and aural privacy;
* Clients are not required to state the nature of their enquiry in front of others; and
* Referrals are made only with the knowledge and consent of the client.

If a client agrees to information being given to a third party, there is no breach of confidentiality.

\*A breach of confidentiality will be authorised only in exceptional circumstances.

## 3 Protecting confidentiality

Everyone participating in the [name of clinic] must have an understanding of the confidentiality policy and its importance and should sign the [confidentiality agreement or declaration] once they have read this guidance. This includes all volunteers, advisers, lawyers, management and administrative staff, and anyone else offering services as part of or on behalf of the [name of clinic].

All volunteers of [name of clinic] must have a practical understanding of what confidentiality means for the operation of the organisation. This ranges from the most practical day-to-day matters such as ensuring that lawyers do not discuss cases where they can be overheard by other clients or people not connected with the service to considering the impact of the principle on potential new services.

However, some element of discretion has to be used. For instance if someone has accompanied a client to [name of clinic] but left while the client is with a lawyer or volunteer, it would be permissible for that person to be told that the client is still in the office (unless the client has expressly requested that this should not happen).

## 4 Breaching confidentiality

Although the overriding rule is that information about a client will not be passed on to a third party without the client’s permission, there are exceptions where there is evidence that:

* a client or someone else is at risk
* disclosure of information is required by law

A decision to breach confidentiality should always be taken very seriously.

Before a breach of confidentiality is sanctioned, a judgment as to whether there is a serious risk of danger to the client or others or to [name of clinic] as a service provider has to be made. This decision will be based on:

* the balance of probability that such a risk exists;
* the likelihood of the risk materialising; and
* the impact of the risk should it materialise.

A breach of confidentiality will not be sanctioned where there is little prospect of the risk becoming a reality or where there is no evidence that there is a risk. Some situations require an immediate response, e.g. where safety is the overriding consideration.

**5. Records**

A record of the circumstances, the issues and the decision made should be kept centrally.

**6 Giving information to third parties (including referrals)**

Confidentiality is not breached if the client agrees to information being given to a third party.

If a client agrees to their case being referred to another organisation, law firm or chambers s/he should also be asked to confirm that all information given to the [name of clinic] can be passed on to the other organisation, law firm or chambers.

**7 Break-ins and theft**

If confidential records are stolen in a break-in or in any other way, the theft must be reported to your supervisor and the police. The report to the police must stress the confidential nature of the records and the importance of them being returned unread if they are found. Client details should not be disclosed to the police. Where case records have not been stolen, but an intruder may have examined them, a report should be made to your supervisor.

**8 Contacting clients**

The way(s) in which clients may be contacted should be agreed at the time of the interview and noted on the case record. Care should be taken when contacting clients in case confidentiality is inadvertently breached. Email enquiries should be handled securely.

**9 Case records**

### Storage of records

Clients' case records and other notes taken in the course of an interview must be kept securely. Any paper correspondence and other records must not be left unattended or kept in interview rooms or offices in view of people from outside [name of clinic]. All files must be kept in filling cabinets when not being worked on. [Name of clinic] implements a clear desk policy as part of its confidentiality policy.

### Lost records

If confidential records are lost, this should be reported to your supervisor as soon as possible.

### Client access to records

Clients have the right to see their own case records and letters written or received on their behalf. Copies may be given to clients, but the originals should be retained in the organisation’s files.

However, where a client has made a complaint or a claim involving liability for wrong advice against the organisation any records or correspondence relating to the claim or complaint is confidential to the organisation and should be stored separately to the original case record.

1. **Third-party access**

A third party can have access to client records only with the client's express permission - preferably in writing. This permission, and details of which documents were supplied to whom and why, must be kept on the case record. Exceptions include [name of clinic]’s insurers/solicitors.

**10** **Unauthorised breaches**

If an unauthorised breach of confidentiality is discovered your supervisor should be instructed as to the nature and details of the event.

Most unauthorised breaches are accidental or inadvertent. Examples include letters sent to clients with the wrong address, papers belonging to one client mistakenly given to another and inexperienced staff members revealing client details to third parties. These types of breaches should not be ignored even if there appear to be no immediate consequences for the client or the organisation.

The client should be informed of what has happened and given the opportunity to make a formal complaint. The breach should be discussed with relevant members of staff or volunteers and [name of clinic]’s procedures should be checked. A record of the breach and the action taken should be made.

In extreme cases, where confidentiality has been breached willfully or maliciously, an investigation should be carried out and disciplinary action may be required.