

Confidentiality Policy

Last Reviewed: November 2021

Next Review Date: November 2022

1. Introduction

In order to benefit from our services, service users need to be able to trust OCD Action, and the people who deliver and manage our services. Respecting service user confidentiality is a fundamental requirement for securing and maintaining that trust.

2. Confidentiality – the principle

When any individual approaches OCD Action for support, neither that fact, nor any other information about him/her will ordinarily be divulged to any person or organisation outside the charity, without the service user's permission. The death of the service user does not end the obligation of confidentiality placed on the organisation.

3. Definitions

For these purposes, "service user" is defined as "anyone approaching OCD Action for information or support."

The person who provides the service is described within this policy as "the staff member / volunteer", as within OCD Action some services are provided by volunteers.

4. Scope of this Policy

This policy is intended for the use of all staff and volunteers working / volunteering for and on behalf of OCD Action. All staff and volunteers must read and agree to adhere to this policy upon induction into the organisation.

An infringement of service user confidentiality not made for sound reasons, and not supported by appropriate procedures (for example disclosure of actual or suspected abuse with regards a vulnerable person without their consent), would be regarded as a serious matter.

This policy assumes that where a question regarding whether confidentiality should be breached appears ambiguous, consultation will take place with a line manager or recognised equivalent.

5. Maintaining Confidentiality

To restrict unintended disclosure:

Service user identifying or sensitive information should be passed on within OCD Action only on a

“need to know” basis. Such information includes name, address, biographical details and other descriptions of the service user’s life and circumstances which might result in their identification. Except where absolutely necessary, the names of service users should not be used in discussions or communications between OCD Action staff and volunteers without legitimate reason and never in a public place.

OCD Action is legally required to maintain security when storing, processing or transferring all paper and electronic information pertaining to the identities of service users.

In the provision of group support, it is the responsibility of the group leader / facilitator to remind members not to disclose personal information about group members outside the group.

The need to share information within OCD Action

The confidentiality agreement is between the service user and OCD Action; it does not rest with the individual member of staff or volunteer. If it has been identified that there is reason for concern, those involved in the consultation regarding whether to breach a service user’s confidentiality, must share only that information which is relevant and to only those persons with a legitimate right to know.

1. Breaching confidentiality without the client’s consent – Outline of circumstances where this may be required

There are exceptional circumstances when the maintenance of trust may be outweighed by issues of public interest. It may be necessary to breach confidentiality, or to vary the confidentiality agreement, in the following broad categories of circumstances, where:

- There is a risk of serious harm to the service user, to someone else, or to the public at large, and it is necessary for OCD Action to act because the service user is unable or unwilling to do so.
- There is a legal obligation (normally a court order or witness summons).
- The work is being carried out in a setting where OCD Action has agreed to vary the confidentiality agreement e.g. in a hospital or care home. Such agreements must be set out in writing before work is undertaken.

Examples of when confidentiality requires breaching:

Where an OCD Action staff member / volunteer has reason to believe that a child or young person may be at risk. The OCD Action’s Safeguarding Children and Young People Policy and Procedures must be followed.

Where an OCD Action staff member / volunteer has reason to believe that a vulnerable adult may be at risk. The OCD Action’s Safeguarding Vulnerable Adults Policy and Procedures must be followed.

Where the OCD Action staff member / volunteer has reason to believe that the service user or someone else is likely to be at serious risk or has already been seriously harmed (e.g. the person has previously been attacked and the attacker is still at large, or threats have been made). Serious harm may be physical, psychological or financial. This includes adult disclosures of historic abuse (see Appendices 1 & 2 of the OCD Action’s Safeguarding Vulnerable Adults Policy).

2. Action to be taken

Some situations of immediate or threatened serious violence will justify an immediate 999 call. In general it is preferable for a service user who needs further help, or who is aware of a situation which should be reported to the police or to another statutory authority, to undertake this him/herself. However, the more serious the situation appears to be, the more important it is that OCD Action as an organisation is able to demonstrate that the correct action has been taken, and in some circumstances, this will involve contacting further help (e.g. the police, Social Services, or medical assistance) without the service user's consent.

3. Legal obligation

The police have no access to service user records without a court order.

A court may order an OCD Action member of staff / volunteer to appear as a witness, and to produce records. In practice the courts are sensitive to the ethical dilemma; it is permissible as a "conscientious witness" to request the court to waive or restrict its powers to order disclosure. In criminal cases, information held by OCD Action may not constitute evidence.

Exceptions under Statute

Under the Terrorism Act 2000 failure to pass on information about planned or actual terrorist offences is a criminal offence under section 19 punishable by fine or a custodial sentence of up to fourteen years. It is also an offence under section 39 for an OCD Action member of staff / volunteer to inform the service user or any other person that information has been passed to the authorities, where such a disclosure is likely to prejudice any investigation. This is an offence punishable by fine or a five year custodial sentence.

Organisations must ensure that service users understand the limitations of confidentiality within the service user- OCD Action relationship and are clear under what circumstances exceptions in confidentiality may occur. Certain circumstances can require confidentiality to be breached and should be explained clearly to the service user, for example:

If the service user is considered to be of danger to themselves; if the service user is perceived to be a danger to others;

If required by the order of a court of law

If acts of terrorism are threatened

Under the Drug Trafficking Act 1994

Under the Road Traffic Act 1988

Under the proceeds of Crime Act 1995

Within OCD Action, the procedures outlined in this Policy should be followed; in all cases of doubt, advice must be sought from a senior manager.

4. Research

OCD Action will only ask service users to supply information for research purposes on the basis of informed consent, and will only co-operate with reputable researchers. It is accepted practice to offer anonymity to research subjects. Researchers, depending on their discipline, should subscribe to the code of ethics of a reputable research body. Research based in a health care setting will need approval from the appropriate ethics committee.

5. Media coverage

Media requests must be fully explored by the relevant manager and full permission must be obtained before any service users' contact details are given out.

Should a service user make unjustified criticisms of OCD Action in the press, OCD Action reserves the right to provide a statement, if considered necessary. Service user confidentiality will be observed as far as possible, but if already broken by the service user, may become one of a number of issues to be balanced in considering whether/how to respond.

6. Retention of records

The service user records must be retained for six years from the date of the last data entry. Other records (which identify a service user by name only) may be confidentially destroyed three years after the last contact with the service user, unless:

- the record contains details of a case where the Safeguarding Children and Young People or Safeguarding Vulnerable Adults Policy has been invoked, in which case all information recorded must be retained for six years from the last contact with the service user.
- the interaction between the service user and OCD Action resulted in a formal complaint, in which case all information recorded must be retained for six years from the date of the ruling on the complaint.

