
Service User Confidentiality Policy

Dun Laoghaire Rathdown Outreach
Project

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1.Responsibility for approval of policy	Governance and Human Resources Subcommittee
2.Responsibility for implementation	Manager
3.Responsibility for ensuring review	Manager
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1. Policy Statement

Confidentiality is a central and integral part of the Dun Laoghaire Rathdown Outreach Project (DROP). DROP is committed to ensuring that all service user information is managed in line with accepted good practice and relevant legislation.

2. Purpose

- 2.1. To ensure that the confidentiality of people using the services of the organisation is protected in a consistent and appropriate manner.
- 2.2. To provide staff, sessional workers, students, volunteers and service users with the organisation's understanding of confidentiality; clear guidelines regarding handling of information, including the sharing of information and the extension of confidentiality
- 2.3. To assign responsibilities for the management of confidentiality.

3. Scope

- 3.1. This policy covers all DROP staff, sessional workers, students and volunteers. This policy also applies to persons from other services conducting in-reach.
- 3.2. This policy applies to service users over 18 years of age.

4. Legislation and relevant documents

- 4.1 Children First, National Guidance for the Protection & Welfare of Children (2011)
- 4.2 Children's Act 2001
- 4.3 Child Care Act 1991
- 4.4 Data Protection Act 1988
- 4.5 Data Protection (Amendment) Act 2003
- 4.6 Data Protection Act 2018
- 4.7 Consent to Share Information Form Appendix 1
- 4.8 National Protocols and Common Assessment Guidelines to Accompany the National Drugs Rehabilitation Framework
- 4.9 DROP's Data Protection Policy
- 4.10 DROP's Service User Privacy Statement

5. Glossary of Terms and Definitions

- 5.1. Confidentiality
All information that is obtained through the course of organisational business and service provision is confidential, and staff, sessional workers, students or volunteers shall not at any time, whether before or after the end of their involvement, disclose such information in any form to any person without written consent. Exceptions to this are outlined in – point 10: Limits to confidentiality.
- 5.2. Sharing without consent
In certain circumstances information can be passed on to a third party without the consent of the individual whose information it is. These circumstances are described in legislation and relate to the safety of the individual or others. Outlined in point 10.
- 5.3 Wrongful Disclosure
Is disclosure without consent, whether accidental or deliberate, which is not covered by section 10.

6. General

- 6.1. Confidentiality can never be absolute and therefore absolute confidence can never be guaranteed.
- 6.2. All service users are to be made aware of DROP's confidentiality policy. Service users will have access to this confidentiality policy.

- 6.3. All service users have the right to have a copy of any information held regarding them by DROP. This must be requested in writing by the service user, and will be dealt with by the Manager; all requests will be responded to within 21 working days.
- 6.4. Confidentiality is between the service user and the organisation. It is not between the service user and any particular member of staff. Case specific information will be shared with the staff team where relevant and necessary.
- 6.5. No information about a service user will be passed on to any third party except in the following cases:
 - 6.5.1. Where consent has been obtained.
 - 6.5.2. Where there is a legal obligation to extend confidentiality ie share information.
 - 6.5.3. Where a decision is taken by management to share information as per the terms of this policy.
- 6.6. 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 in section 10.
- 6.7. All service user files are to be kept in a secure place within the organisation. Staff, sessional workers, students and volunteers are expected to exercise care to keeping safe all documentation or other material containing confidential information.
- 6.8. 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.
- 6.9. Computer files should be password protected with the password held only by staff members involved in relevant service provision.

7. Roles and Responsibilities

Dun Laoghaire Rathdown Outreach Project is responsible for ensuring that all staff, sessional workers, students and volunteers involved in dealing with confidential information and data receive appropriate training, supervision and support regarding the policy and their legal responsibilities.

7.1. Responsibility:

The manager is responsible for ensuring that a copy of this document is available to all staff, sessional workers, students and volunteers and is available to users of the service. It is the responsibility of the manager to ensure that all staff sign to confirm they have understood the confidentiality policy and that they receive training as necessary.

7.2. Individual's Responsibility:

All staff, sessional workers, students and volunteers are required to act in accordance with the policy, failure to do so will be considered as an act of gross misconduct and will result in disciplinary action.

8. Informing Service Users

- 8.1. All service users should be made aware of the following:
 - 8.1.1. Confidentiality is between the individual and the organisation; information will be shared with the staff team.
 - 8.1.2. Their right to have a copy of all information concerning them and that they will need to request this in writing, which staff can support them to do.
 - 8.1.3. Circumstances in which confidentiality may be extended, see point 10.
 - 8.1.4. Their consent to share information can be withdrawn at any time.
- 8.2. This information should be imparted at the point of initial contact / assessment and at regular intervals while accessing our services by the staff member undertaking this work.

9. Obtaining Consent to Share Information

- 9.1. Information held by the organisation, and not independently available to a third party, cannot be disclosed without the individual's written consent.

- 9.2. Consent must be sought in writing using a standardised consent form. The service user should be informed each time information regarding them will be shared with a third party.
- 9.3. The consent form should stipulate:
 - 9.3.1. The third party with whom the information is to be shared.
 - 9.3.2. The period time for which consent is given. Written consent to share information cannot be given for periods longer than six months. Once the initial period for which the written consent is valid has expired, fresh written consent must be sought.
 - 9.3.3. The specific details concerning the information that will be shared including what information can be shared and through what mode of communication (i.e. in person, fax, telephone, email, in writing).
 - 9.3.4. The date and signatures of the service user and DROP
- 9.4. Each time it is sought to share information under the written consent, the service user should verbally be informed of:
 - 9.4.1. The third party with whom the information is to be shared
 - 9.4.2. Whether the third party has a confidentiality policy
 - 9.4.3. The reason for sharing the information
 - 9.4.4. That DROP has no control over the information once it is given to a third party.
 - 9.4.5. That they can withdraw their consent to share information if they so wish

10. Limits to Confidentiality

- 10.1. Confidentiality can never be absolute and therefore absolute confidentiality can never 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.
- 10.2. Application of extensions of confidentiality will in all cases be decided by the Manager, in their absence this decision will be delegated to the most senior staff person.
- 10.3. Confidential information may be shared with an external third party without service user consent when:
 - 10.3.1. They have perpetrated sexual / physical abuse on another person
 - 10.3.2. They intend to perpetrate sexual / physical abuse on another person
 - 10.3.3. Any other issues in relation to Child Protection, as described in Children First
 - 10.3.4. They have committed a criminal act (Criminal Law Act, 1997)
 - 10.3.5. They intend to commit a criminal act (Criminal Law Act, 1997)
 - 10.3.6. They have self-harmed / attempted suicide and are at risk of causing harm to self
 - 10.3.7. They intend to self-harm / attempt suicide
- 10.4. In the event of a disclosure of any of the above, the staff member should inform the service user that they will need to report the issue to their Line Manager. If it is necessary to pass on the information the service users consent should be obtained if possible, if not possible at the time the service user should be informed at the next available opportunity.
- 10.5. Other situations where consent may be extended:
 - 10.5.1. As required by law, including though not limited to court appearances.

11. Procedure for dealing with the disclosure of a criminal act (Criminal Law Act, 1997)

- 11.1. Where a service user expresses the intention to disclose a criminal act the staff member must make them aware that this information cannot be held in confidence and point 10.4 above will need to be followed.
- 11.2. Where the disclosure of a criminal act has taken place this information should be written up in detail as disclosed by the service user and given to the manager.
- 11.3. The manager will then discuss this information with the service user and request that they sign consent to share this information with the relevant authority, An Garda Síochána.

- 11.4. Failure to pass this information with the relevant authority can result in prosecution of the staff of the Dun Laoghaire Rathdown Outreach Project in line with Sections 7 & 8 of the Criminal Law Act, 1997 (Section 7 & Section 8 appendixes to this policy)

12. Sharing Information with Other Organisations

- 12.1. In all cases, there must be a written consent form, signed by the service user, on file before any information is to be shared with any third party. In the event that the consent form does not originate from DROP the validity of the consent form received must be confirmed verbally with the service user before any information is shared.
- 12.2. If DROP is requested to write a service report, where possible this will be shown to the service user for comment prior to it being sent.
- 12.3. Care must be taken in relation to specific modes of communication to ensure confidential information is not unintentionally shared. Always ensure that consent covers the type of communication by which it is intended to share information.
- 11.3.1 Emails should be sent to organisational, not personal email addresses. Be aware that emails are not a secure method of communication unless encrypted. DROP does not operate an encrypted email system to external domains. Thus, if email is to be used as a method of communication, the service user whose information is to be shared must specifically agree to transmission by this method and be advised of the risks of same which include;
- 11.3.1.1 The email may be intercepted in transit
- 11.3.1.2 The email may be forwarded or otherwise dealt with by the recipient
- 11.3.2 Phone calls do not allow us to see who we are talking to. There is risk that the person calling is not who they say they are. Service user attendance or presence in the service must not be confirmed to a caller unless you are sure they are covered by a valid consent form.
- 11.3.3 Fax number should be confirmed as organisational numbers. It is also useful to confirm where in the building a fax machine is located to ensure that faxed confidential information does not arrive in a public place.
- 12.4. Staff members called to give evidence in court should contact the Manager, who will provide support in this area.
- 12.5. All requests for service user involvement in research, evaluation or for other data collection purposes need to have ethical approval from a recognised body and must include clear guidelines on confidentiality. All such requests must be approved by the Manager prior to these being facilitated by staff or displayed within the organisation. Any such research should comply with data protection guidance on research.

13. Wrongful Disclosure

- 13.1. Wrongful disclosure will be considered as an act of misconduct or gross misconduct as appropriate and may result in disciplinary action.
- 13.2. Where wrongful disclosure has taken place, the service user will be informed.
- 13.3. DROP will inform the office of the data commissioner of the wrongful disclosure, as appropriate.

14. Data Protection Responsibilities

- 14.1. In addition to the duty of care regarding confidentiality outlined above, the Data Protection Acts imposes legal obligations on DROP, its staff and volunteers. DROP takes seriously its responsibilities under the Data Protection Acts. The organisation is aware of and acts in accordance with the following these seven data management principles
- 14.1.1. Fair, Transparent and Lawful Processing of all data
- 14.1.2. Purpose Limitation
- 14.1.3. Minimisation of Processing
- 14.1.4. Data Accuracy/Data Quality

14.1.5. Retention, Storage Limitation

14.1.6. Security and Confidentiality

14.1.7. Liability and Accountability

14.2. DROP's Data Protection Policy outlines our data protection practices and procedures and is available on the organisations shared network to all staff and on our website for all stakeholders.

15. Service User Request for Information

15.1. If a service user wishes to have access to their file, they need to complete a written request; staff can assist with this.

15.2. The request will be processed by the/ Manager who will process the request within 30 days.

15.3. In this case care will be taken to ensure that any information relating to other individuals that is held within the service users file is blanked out.

Appendix 1 – Consent to share Information form**DUN LAOGHAIRE RATHDOWN OUTREACH PROJECT CLG
CONSENT TO SHARE INFORMATION FORM**

Date: _____

Service User name: _____

Address: _____

I give permission to DROP to share information regarding me with:

Name	Position	Service / Agency

This communication can take place:

Please tick as appropriate.

- In person
- By telephone
- In writing
- By email
- By fax

This communication can include issues relating to:

Please tick as appropriate.

- | | |
|--|--|
| Accommodation <input type="checkbox"/> | Income and Finance <input type="checkbox"/> |
| Family <input type="checkbox"/> | Physical health <input type="checkbox"/> |
| Childhood <input type="checkbox"/> | Mental health <input type="checkbox"/> |
| Education <input type="checkbox"/> | Alcohol use <input type="checkbox"/> |
| Work/Training <input type="checkbox"/> | Drug use <input type="checkbox"/> |
| Legal Issues <input type="checkbox"/> | Independent living skills <input type="checkbox"/> |

I would / would not like to see any letters / emails concerning me before they are sent to the person(s) or organisation(s) mentioned above. I confirm that I understand the Dun Laoghaire Rathdown Outreach Project's confidentiality policy, and the times when information may be shared without my permission.

Signed (Service User) _____

Signed (Staff member) _____

Review date _____

CONSENT TO RETAIN MY PERSONAL INFORMATION

I confirm that it has been explained to me that a client file with my personal information will be kept in the Dun Laoghaire Rathdown Outreach Project.

This information will be a record of my participation in the service that DROP provides me and any correspondence provided to me and on my behalf from the organisation. The information will be retained in a secure manner and in both written and electronic format.

I confirm that I have been informed that I can access the organisation’s Data Protection policy at www.drop.ie and should I wish to access my file can do so following the procedures outlined in this policy

(please tick)

I confirm that I have been given a copy of the Service User Privacy Statement (please tick)

Signed (Service User) _____

Signed (Staff member) _____

Date: _____

Appendix 2 – Section 7, Criminal Law Act 1997

Criminal Law Act, 1997

Penalties for assisting offenders. **7.—(1)** Any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender.

(2) Where a person has committed an arrestable offence, any other person who, knowing or believing him or her to be guilty of the offence or of some other arrestable offence, does without reasonable excuse any act with intent to impede his or her apprehension or prosecution shall be guilty of an offence.

(3) If, upon the trial on indictment of an arrestable offence, it is proved that the offence charged, or some other offence of which the accused might on that charge be found guilty, was committed but it is not proved that the accused was guilty of it, the accused may be found guilty of an offence under *subsection (2)* of which it is proved that he or she is guilty in relation to the offence charged, or that other offence.

(4) A person committing an offence under *subsection (2)* with intent to impede another person's apprehension or prosecution shall be liable on conviction on indictment to imprisonment according to the gravity of the offence that the other person has committed or attempted to commit, as follows:

- (a) if that offence is one for which the sentence is fixed by law, or for which the maximum sentence is imprisonment for life, he or she shall be liable to imprisonment for a term not exceeding ten years;
- (b) if it is one for which a person of full capacity and not previously convicted may be sentenced to imprisonment for a term of fourteen years, he or she shall be liable to imprisonment for a term not exceeding seven years;
- (c) if it is not one included in *paragraph (a)* or *(b)* but is one for which a person of full capacity and not previously convicted may be sentenced to imprisonment for a term of ten years, he or she shall be liable to imprisonment for a term not exceeding five years;
- (d) in any other case, he or she shall be liable to imprisonment for a term not exceeding three years.

(5) Where a person is charged with an offence under *subsection (2)*, no further proceedings in the matter (other than any remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(6) The references in the following provisions, namely subsection (1) of section 13 (which relates to a plea of guilty in the District Court of an indictable offence) and subsection (1) (f) of section 29 (which relates to bail in the case of certain offences) of the Criminal Procedure Act, 1967, to an accessory before or after the fact shall be construed as references to aiding, abetting, counselling or procuring the commission of an offence, and to an offence under *subsection (2)*.

(7) The First Schedule to the Criminal Justice Act, 1951 (which specifies the indictable offences which may be tried summarily with the consent of the accused) is hereby amended by the insertion of the following reference:

"24. An offence under section 7 (2) of the *Criminal Law Act, 1997*".

Appendix 3 – Section 8, Criminal Law Act 1997

Criminal Law Act, 1997

Penalty **8.**—(1) Where a person has committed an arrestable offence, any other person who, knowing for or believing that the offence or some other arrestable offence has been committed and that he concealing or she has information which might be of material assistance in securing the prosecution or offence. conviction of an offender for it, accepts or agrees to accept for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding three years.

(2) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.

(3) The compounding of an offence shall not be an offence otherwise than under this section.

(4) The First Schedule to the Criminal Justice Act, 1951 (which specifies the indictable offences which may be tried summarily with the consent of the accused) is hereby amended by the insertion of the following reference:

"25. An offence under section 8 of the *Criminal Law Act, 1997*".