

Version	Adopted by Board on	Signature of Chair
1.0		



# ***Confidentiality Policy***



## Confidentiality Policy

This policy should be read in conjunction with TURN Education C.I.C.'s:

- Safeguarding Policy,
- Safer Recruitment Policy
- Whistleblowing Policy
- Data Protection Policy
- Health and Safety Policy
- Behaviour Policy
- *'Putting Things Right'* – our Disciplinary and Grievance Framework

### Policy Aims

We aim to ensure that:

- Parents may share confidential information that will only be used to enhance the welfare of their children.
- All members of staff working for, or with, TURN Education C.I.C. ("the Company"), all children, young people and vulnerable adults who are using our services ("service users"), and all visitors involved directly with our service users, are clear about the levels of confidentiality they can offer to the community of people engaging with the Company, and can expect for themselves.

- There are record keeping systems in place that meet legal requirements; means of storing and sharing that information may take place within the framework of the General Data Protection Regulation 2018 and the Human Rights Act.

## Objectives

- To enable the Company, and those working for, or with, the Company, to be clear about their legal and professional roles and responsibilities, particularly where Child Protection procedures apply.
- To enable the Company, and those working for, or with, the Company, to be clear about their position if parents and families wish to disclose confidential information.
- To ensure that all members of staff working for, or with, the Company, all service users, and all visitors involved directly with our service users, understand the varying levels of confidentiality which might be offered in differing circumstances.
- To be a clear, explicit, well-publicised policy to ensure good practice throughout the Company which staff, volunteers and contractors, parents and all service users, can easily understand.
- To ensure that adults, parents and all service users have a right to know that information they share will be regarded as confidential as well as be informed about the circumstances and reasons when we are obliged to share information.
- To ensure that there is an understanding that we are obliged to share confidential information without authorisation from the person who provided it, or to whom it relates, if it is in the public interest. The situations in which this 'public interest' clause is relevant are when:
  - It is to prevent a crime from being committed
  - It is necessary to intervene where a crime may have been committed
  - It is to prevent harm to a child or adult
  - Not sharing the information could be worse than the outcome of having shared it

The decision to share confidential information without authorisation should not be made by an individual member of staff but only in consultation with, and with the agreement of, the Managing Director. The three critical criteria that will be taken into account are:

1. Where there is evidence that a service user is suffering, or is at risk of suffering, significant harm
2. Where there is reasonable cause to believe that a service user may be suffering or at risk of suffering significant harm.
3. Where it is necessary to prevent significant harm arising to service user, including the prevention, detection and prosecution of serious crime.

## Confidentiality Procedures

We will explain to families and carers how, when and why information will be shared about them and with whom. We will explain that consent is normally obtained, unless it puts the service user at risk or undermines a criminal investigation.

We will ensure that parents and carers receive information about our information sharing policy when their child, young person or vulnerable adult begins to use the services of the Company and they will be asked to sign a declaration form to acknowledge they understand the circumstances when information may be shared without their consent. That this will only be when it is a matter of safeguarding a child, young person or vulnerable adult will be made clear on the declaration form.

We will ensure that all parents and carers have information about our Safeguarding Policy.

The following sections offer specific advice to the various groups who may be affected by this Policy.

### All persons working for or with the Company (including staff and volunteers)

When talking with service users, you should maintain your professional boundaries. Whilst being supportive, where you can, distancing techniques should be used when appropriate and service users with serious issues should be encouraged to see the Managing Director. In most circumstances it will be appropriate to discuss issues with parents and carers unless it refers to a safeguarding issue.

Members of staff and volunteers cannot offer or guarantee absolute confidentiality. You must make this clear to a service user if they begin to talk about something where confidentiality may become an issue.

***Remember - confidentiality cannot be maintained if a child, young person or vulnerable adult is at risk of being harmed or harming themselves or others.***

Similarly, service users should be warned that if there is a child protection issue where service user or others are likely to be at risk of significant harm, **staff and volunteers are under a duty to inform the Managing Director who may have to involve other agencies.** This should be communicated sensitively to the service user to explain that the appropriate people must be informed to help the service user but that only those who really need to know will be told.

Staff and volunteers can only offer confidentiality to service users on issues that do not involve significant illegal activities e.g. drug trafficking, arson etc. If the conversation begins to move to this kind of issue, the service user must be warned that confidentiality cannot be guaranteed.

In all cases where you feel that you have to break confidentiality with the service user, you must inform the service user and reassure them that their best interests will be maintained.

In talking to a service user, you need to encourage them to talk to their parents or carers about the issue that may be troubling them and support in doing this should be offered where appropriate.

If it appears that a specialist confidential service may be required then no comment should be made to the service user but that person should be referred to the Managing Director.

### Adults and those using the services of the Company

You may receive confidential information from other service users, parents, carers members of staff, volunteers or other adults which is told to you in confidence and which is not affected by any of the above limitations. In this case, you should always respect such confidential information and not disclose it to others either in private or in a public space.

***The Company discourages any forms of general ‘gossip’ about the affairs and concerns of others, whether adults or service users.***

Always check with parents or carers whether they regard the information they share to be confidential, or not.

### Peer and adult mentoring and support

From time to time the Company may encourage mentoring and support on a formal or informal basis between service users and between service users and other appropriate adults. Service users and adults are not allowed to promise to keep secrets but all conversations between the mentor and the mentee will be kept confidential except in the following circumstances:

- The mentor must tell the Managing Director if a service user discloses either any form of abuse or anything else that would make them worry about the service user’s safety.
- If the mentee is about to disclose the sort of information mentioned above, the mentor must explain that they will need to take the mentee to the Managing Director to help with the problem. The mentor may offer to go along, possibly as an advocate.

- If a mentor has a concern about the content of a mentoring meeting, they should discuss it with the Managing Director.

### Parents, Carers and families

The Company recognises that sometimes there may be family or domestic issues which might affect a service user and which the family/team of carers will only disclose to the Company if they can be sure the information will be treated confidentially.

The Company will respect the wishes of the family/team of carers and, where it is felt necessary to share the information given to the Company, this will be discussed with the parent/carer first unless a service user is considered to be at immediate risk and/or there is an overriding child protection concern.

The Company will inform parents/carers when we need to record:

- Confidential information beyond the general personal information kept in our main records
- Any records we are obliged to keep regarding action taken in respect of child protection
- Any contact and correspondence with external agencies in relation to the service user

We will keep all records securely.

If parents/carers share information about themselves with other parents or adults, the Company cannot be held responsible if information is then shared beyond those adults in whom the person 'confided'.

### Staff, Volunteers and Directors

All staff, volunteers and Directors of the Company can normally expect that their personal situations and health will remain confidential, unless:

- It impinges on their terms of contract or volunteer agreement
- It endangers service users or other members of staff
- There is a legal obligation to disclose such information
- It is necessary for legal proceedings
- Despite the duty of confidence, the staff member, volunteer or Director's interest, or the wider public interest justifies disclosure.

## Access to Records Procedure

Parents and those with parental responsibility may request access to any confidential records held concerning their child or other service user and family by following the procedure below. However, the attention of parents and those with parental responsibility is drawn to the Section 9.2 in the Company's Data Protection Policy, which reads as follows:

### **9.2 Children and subject access requests**

*Personal data about a child belongs to that child and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request, or have given their consent.*

*Children below the age of 12 are generally not regarded as mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers may be granted without the express permission of the child concerned. This is not a rule and a child's ability to understand their rights will always be judged on a case-by-case basis.*

1. Any request to see the child or other service user's file by a parent or person with parental responsibility must be made in writing to the Company following the procedure set out in Section 9.0 of the Company's Data Protection Policy which is contained in Appendix 2 to this Policy.
2. In addition to the procedure set out in Section 9.0 of the Company's Data Protection Policy, which is contained in Appendix 2 to this Policy, if the confidential record in question contains any reference to third parties then:
  - a. All third parties so mentioned will be contacted in writing and informed that a request for disclosure has been received and asking permission to disclose to the person requesting it. Copies of these letters will be retained on file. 'Third parties' include all family members who may be referred to in the records, workers from any other agency, including social services etc. (N.B. it is usual for agencies to refuse to disclose, preferring an individual to go to them)
  - b. When all consents/refusals to disclose have been received, these are attached to the copy of the request letter.

- c. A photocopy of the complete file will be made
- d. The Managing Director and the Data Protection Officer will go through the file and remove any information a third party has refused to disclose (in other words, the file will be redacted) This will be done with a thick black marker scoring through every reference to the third party and the information they have added to the file.
- e. The remaining information will be what has been recorded by the Company, detailing the work initiated and the procedures followed by them in relation to confidential matters. This is called the 'clean copy'
- f. The 'clean copy' will then be photocopied for the parents/carers who will then be invited to discuss the contents. As a matter of policy, the Company will not just hand the file over to the parent/carer but will arrange for the parent/carer to meet with the Managing Director so that the file can be explained and discussed.
- g. Legal advice may be sought before sharing a file, especially if it is believed that the parents/carers may have possible grounds for litigation against the Company or another third party.

**This policy will be reviewed annually.**

## **Appendix 1**

The following are Statements explaining the main concepts of the Company's Confidentiality Policy for parents/carers and for service users:

### **STATEMENT FOR PARENTS/CARERS**

Re: Confidentiality

We recognise that parents/carers and those with parental responsibility will want to do all they can to support their child, young person or vulnerable adult, but even in the most supportive of relationships there may be occasions when a child, young person or vulnerable adult is worried and may choose not to talk to their parent/carer. This may result in an enormous stress and, whilst we recognise that parents/carers will naturally be disappointed if their child, young person or vulnerable adult does not choose to talk to them about the worrying issue, we feel that there could be even more distress if that child, young person or vulnerable adult is unable to cope with the issue alone. On this basis, we have agreed the following:

Our staff will be supportive to children, young persons and vulnerable adults who approach them with concerns but will make it clear that they cannot offer confidentiality to that person on anything that involves an illegal activity or anything that is a potential child protection issue where the child or young person or others are likely to be at risk of significant harm.

The Managing Director will liaise with parents/carers as appropriate in cases where a member of staff or volunteer has reported an issue over which confidentiality cannot be promised.

Staff will support our service users to inform their parents/carers about issues that are troubling them, as appropriate.

### **STATEMENT FOR CHILDREN, YOUNG PEOPLE AND VULNERABLE ADULTS USING THE SERVICES OF TURN EDUCATION C.I.C.**

Re: Confidentiality

We understand that there may be times when there are things that are worrying you but you feel that you cannot talk to your family or those who are caring for you. Our staff will do all we can to help you but you need to know the following:

- If you really want to talk to someone confidentially (without anyone else knowing what you have said) the Managing Director, Caroline Hardeman-Mason is always available to talk to you.
- Our staff will often be able to help you with many of the things that may be worrying you but they cannot promise to keep everything to themselves. If you tell them about

an illegal activity, they will have to speak to the Managing Director and it may be that your parents/carers or the police or social services will need to be involved.

- If the Managing Director feels that asking a specialised counsellor to help you would be beneficial, this may be recommended to you and your parents/carers.
- If our staff member feels that someone else needs to be told about what you have talked about, they will always tell you first and help you sort it out, perhaps helping you to speak to your parents/carers.
- Very rarely there are things which you may need to talk about which can be very dangerous for you or for other young people e.g. someone is trying to harm you. Such talks have to be reported to the Managing Director and your parents/carers or the police or social services may need to be involved. You will always be told that this will need to happen. The main priority is to help you to sort it out and be safe.

## **Appendix 2**

### **Section 9.0 of TURN Education's Data Protection Policy**

#### **1. Subject access requests and other rights of individuals**

##### **9.1 Subject access requests**

Individuals have a right to make a 'subject access request' to gain access to personal information that the organisation holds about them. This includes:

- Confirmation that their personal data is being processed
- Access to a copy of the data
- The purposes of the data processing
- The categories of the personal data concerned
- Who the data has been, or will be, shared with
- How long the data will be stored for, or, if this isn't possible, the criteria used to determine this period
- The source of the data, if not the individual
- Whether any automated decision-making is being applied to their data and what the significance and consequences of this might be for the individual

Subject access requests must be submitted in writing, either by letter or email to the DPO (Data Protection Officer) They should include:

- Name of individual
- Correspondence address
- Contact number and email address
- Details of the information requested

If staff receive a subject access request, they must immediately forward it to the DPO.

## **9.2 Children and subject access requests**

Personal data about a child belongs to that child and not the child's parents or carers. For a parent or carer to make a subject access request with respect to their child, the child must either be unable to understand their rights and the implications of a subject access request, or have given their consent.

Children below the age of 12 are generally not regarded as mature enough to understand their rights and the implications of a subject access request. Therefore, most subject access requests from parents or carers may be granted without the express permission of the child concerned. This is not a rule and a child's ability to understand their rights will always be judged on a case-by-case basis.

## **9.3 Responding to subject access requests**

When responding to requests, we:

- May ask the individual to provide two forms of identification
- May contact the individual via telephone to confirm the request was made
- Will respond without delay and within one month of receipt of the request
- Will provide the information free of charge
- May tell the individual we will comply within three months of receipt of the request where a request is complex or numerous. We will inform the individual of this within one month and explain why the extension is necessary

We will not disclose information if it:

- Might cause serious harm to the physical or mental health of the child or another individual
- Would reveal that the child is at risk of abuse, where the disclosure of that information would not be in the child's best interests
- Is contained in adoption or parental order records
- Is given to a court in proceedings concerning a child

If the request is unfounded or excessive, we may refuse to act on it, or charge a reasonable fee which takes into account administrative costs.

A request will be deemed to be unfounded or excessive if it is repetitive, or asks for further copies of the same information.

When we refuse a request, we will tell the individual why and tell them they have the right to complain to the ICO.

#### **9.4 Other Data Protection rights of the individual**

In addition to the right to make a subject access request (see above) and to receive information when we are collecting their data about how we use and process it (see Section 7) individuals also have the right to:

- Withdraw their consent to processing at any time
- Ask us to rectify, erase or restrict processing of their personal data, or object to the processing of it (in certain circumstances)
- Prevent use of their personal data for direct marketing
- Challenge processing which has been justified on the basis of public interest
- Request a copy of agreements under which their personal data is transferred outside of the European Economic Area
- Object to decisions based solely on automated decision making or profiling (decisions taken with no human involvement, that might negatively affect them)
- Prevent processing that is likely to cause damage or distress
- Be notified of a data breach in certain circumstances
- Make a complaint to the ICO
- Ask for their personal data to be transferred to a third party in a structured, commonly used and machine-readable format (in certain circumstances)

Individuals should submit any request to exercise these rights to the DPO. If staff receive such a request, they must immediately forward it to the DPO.