# Policy statement

1.1 It is important to respect and protect the confidential information we hold at Leonard Cheshire (LC) of people who use our services. Confidential information may be personal to an individual, or to LC as a charity.

1.2 We have a duty to treat the information we hold about the people we provide services to in the strictest of confidence. People need to have confidence that anything they tell us which relates to their care and wellbeing will only be disclosed appropriately.

1.3 We will only share confidential information on a ‘need to know’ basis in line with professional practice, unless legal or regulatory requirements necessitate greater disclosure.

# Purpose and scope

2.1 Whenever possible, informed consent will be gained from people who use our services, or their nominated representative, before confidential information is appropriately shared. LC acknowledges that there are exceptional circumstances where it may be required to disclose information without the consent of the individual concerned. The Data Protection Act 1998 ensures that we protect confidential information and details what information can be passed on. Where it is legally permissible to do so, LC will make the individual concerned aware of the information to be disclosed, and why it is necessary to disclose it. This policy applies to all our services in the UK.

# Policy basis

3.1 There is no single statute that governs the law of confidentiality, but it has developed through case law and is supported by various statutes.

* The Data Protection Act 1998 (DPA) governs the processing of information, including the storing, obtaining, using, and disclosing of confidential patient information
* The Computer Misuse Act 1990 makes it a criminal offence for a person to access a database to gain confidential information to which the person is not authorised
* According to the British Medical Association (BMA), all identifiable patient information held by a healthcare professional in any form is confidential. This information encompasses, for example, clinical information, images of the patient, who the patient's doctor is, what clinics the patient attends and when, and anything else that may be used to identify a patient directly or indirectly
* The House of Lords recognised that medical information is 'obviously private' and should be protected under the European Convention on Human Rights, Article 8,5 (the right to respect for private and family life), which ultimately protects the dignity and autonomy of a person

3.2 The duty of confidentiality continues after a person dies, especially if the person asked for information to remain confidential.

# Procedure

4.1 Line managers are responsible for ensuring that:

* Information obtained by employees or volunteers about a person using the service or their family, while supporting them, is treated as confidential
* Confidential information is not passed on to others without the permission of the service manager or head of department
* Where an employee or volunteer has knowledge or information about a person who uses our services gained prior to their joining the service, they should inform the service manager or volunteer co-ordinator of that fact, in order to avoid a potential compromising situation
* Employees/volunteers are aware that a breach of confidentiality is regarded as a serious breach of trust
* Any breach of confidentiality on the part of a member of staff may lead to investigation and possible disciplinary action which could include dismissal
* People using our services are informed of the need to respect the rights of others when they are in receipt of information which is of a confidential nature
* Volunteers are aware that breaches of confidentiality may result in their exclusion from the organisation
* Confidential information is only given on the telephone when caller recognition has been established and the individual’s permission has been given
* Employees and volunteers comply with the Data Protection Policy, the Classification & Handling of Information & Data Guidelines and other related guidance

4.2 Further guidance on how staff manage personal or confidential information is detailed in of the Classification & Handling of Information & Data Guidelines.

4.3 Support and care plans for people who use our services can only be accessed by those that have responsibility to deliver the service, or ensure the service is doing as it should be (such as an internal audit). The Consent Form within each person’s personal plan will detail with whom the information can be shared with.

4.4 Where an employee/manager receives a request for a copy of documentation or information from an external source, for example asking for a person’s care/support plans, and is uncertain about the appropriateness of the request, they must consult their line manager. It should not be assumed that family members have a right to access or see this information.

4.5 Confidential information about people who use our services, such as health and support plans, may only be shared by LCD with external organisations or partner agencies if they are directly involved in providing a service to the individual, and if the information is necessary to provide the service. This could include hospital visits or going on a holiday. Extreme care must be taken with what information is shared; if it can be defined as ‘restricted information’, as set out in the Classification & Handling of Information & Data Guidelines, then this data must **not** be shared externally.

4.6 LC is also required to comply with certain legal duties to disclose information. In these cases it may not always be possible or appropriate to obtain consent to disclosure. This will include:

* Court orders and warrants requiring disclosure of information.
* Notifiable disease. Doctors who suspect that patients are suffering from infectious diseases must notify the local authority. Managers have to provide the information required as part of this notification procedure.
* Regulatory bodies. Some information is reportable to these authorities or can be required by them.
* Our appointed external auditors.

4.7 If a person, whether someone using our services, an employee or a volunteer, believes their right to confidentiality has been breached, then they can put in a complaint, grievance or concern and this will be investigated by an appointed manager using the LC procedure.

4.8 People who use our services should refer to the ‘How to make a complaint’ leaflet for more information. Employees should refer to the Resolving Employee Concerns policy and volunteers should refer to the Volunteering Procedure.

# Communication

This policy can be found on the LC Intranet, and may also be printed off in hard copy within services.

# Linked policies

There are a number of other policies which are linked to this one. All relate to our role in safeguarding customers’ privacy and dignity including:

* + Data Protection Act policy
  + Classification & handling of information and data guidelines
  + Corporate retention policy
  + Whistleblowing policy
  + Access to records policy
  + Person centred practices policy
  + Information systems security acceptable use policy
  + Safeguarding of vulnerable adults policy
  + Safeguarding and child protection policy
  + Employee handbook
  + Managing complaints policy
  + Information governance policy
  + Information sharing policy
  + Resolving Employee Concerns policy
  + Mental Capacity Act policy

# Roles and responsibilities

This policy applies to all trustees, volunteers, our customers and staff (including: temporary employees, contractors and consultants) that have access to the charity’s information.

# Review

This policy will be reviewed every three years or sooner if changes are required as a result of new legislation or regulation.

# Comments and Queries

Any comments or queries relating to the terms or application of this policy should be directed to its owner (named below) or the relevant department head.

# Approval

This policy has been approved by the Management Board with delegated authority from the Board of Trustees.

# History

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| Policy commenced: | 1st March 2017 | Next full review due: | 1st March 2020 |
| Last full review: | 1st March 2017 | Department: | Quality Improvement |
| Lead Director | Executive Director of Care Services | Policy owner: | Head of Quality Improvement |