

*July 2017*

# Confidentiality Policy

Live  Care

Date Written	13.07.2017
Author(s)	Registered manager
Version	2.0
Date Signed Off	20/07/2017
Reviewed by	

Unit 1 Chandos House,  
Hankridge Way,  
Taunton,  
Somerset  
TA1 2LR

# Review Data

## Initial Production

Name	Role/Department	RACI	Date
Registered manager	Registered Manager	RA	13.07.2017
Registered manager	Registered Manager	RA	04.12.2017

R = Responsible for document production; A = Accountable; C = Consulted; I = Informed

## Change History

Version	Date	Details of Change	Author
2.0	03.07.2017	Re-write and re-structure of original policy in line with most recent legislative updates.	Registered manager

## Emergency Contact Details

Name	Email	Mobile
Registered manager	fran@livein.care	

## CQC Fundamental Standards

Regulation Number	Regulation Details
Regulation 10: Dignity and respect	Clients must be treated with dignity and respect, including ensuring the privacy of the Client.

## Key Lines of Enquiry

KLOE	How this applies to Confidentiality
Caring	Having a robust and effective confidentiality policy demonstrates that our company is caring, as it prioritises then needs of the Client and treats them with dignity and respect through valuing their privacy and right to have their information kept confidential.

## Related Documents

This policy should be read in conjunction with our:

- [Data Protection Policy](#)
- [Dignity and Respect Policy](#)
- [Quality Assurance Policy](#)

## Policy Aims

- To help staff understand what confidentiality means
- To ensure that confidential information is kept secure
- To support staff in compliance with the following legal requirements and best practice guidance:
  - Data Protection Act 1998
  - Human Rights Act 1998
  - Common Law of Confidentiality
  - The Caldicott Report 1997
  - The Care Act 2014

## Policy Statement

**Living Carers Ltd and its staff will respect and protect all confidential information concerning its Clients at all times.**

Any failure to observe the principles outlined in this policy will lead to disciplinary action which, in more serious or repeated cases, may lead to the employee's dismissal.

Employees should not discuss or disclose any information relating to the company's business and/or activities which might be considered to be at a private or confidential nature to any outside person or organisation.

### **Key Question: Confidential Information – What is it?**

Confidential information is all personal data about an individual, oral or in written. This information should be assumed to be confidential unless stated otherwise.

It is likely that most Clients of Living Carers Ltd (through age, illness, impairment or disability for example) will have been involved in receiving healthcare treatment throughout their lives. As such they will probably be familiar with the requirements of services to protect the personal and often sensitive information that has been gathered as part of the treatment process.

## **Procedure**

The general duty to hold such information in confidence arises from:

- A) A legal obligation which is resulting from specific Acts and case law;
- B) A requirement established within professional codes of conduct (which apply to many of the healthcare workers who may be part of the Client's healthcare team);
- C) A requirement for staff not to wrongly divulge confidential information, which is incorporated into staff disciplinary procedures.

The same duties and obligations apply to Living Carers Ltd in every respect, and all Clients have the expectation that Living Carers Ltd staff will respect their privacy and act appropriately.

**A key consideration is the direct link between an individual and the sensitive and personal information which is held about them.**

Key identifiable information includes:

**Name, address, full post code, date of birth;**

**Pictures, photographs, videos, audio-tapes or other images;**

**NHS number and local patient identifiable codes;**

**Anything else that may be used to identify a patient directly or indirectly. For example, rare diseases, drug treatments or statistical analyses**

**which have very small numbers within a small population – making it easier for individuals to be identified.**

**It is generally accepted that information provided by Clients to Living Carers Ltd is provided in confidence and must be treated as such so long as it remains capable of identifying the individual it relates to.**

This is an important point, as once information is effectively anonymised it is no longer confidential. The protection of confidential information is an important component of Living Carers Ltd's procedures and protocols, and includes the following measures:

- 1. Procedures to ensure that all staff are always fully aware of their responsibilities regarding confidentiality;**
- 2. Recording Client information accurately and consistently;**
- 3. Keeping Client information private;**
- 4. Keeping Client information physically secure;**
- 5. Disclosing and using information with appropriate care.**
- 6. Procedures to ensure that all staff are fully aware of their responsibilities regarding confidentiality.**

Living Carers Ltd ensures that staff are aware of confidentiality issues through the creation of policy/procedure documents such as this one, and its policy/procedure entitled "Employee Responsibilities", induction process and Living Carers Ltd's Disciplinary procedures.

### **Recording Client Information Accurately and Consistently**

Living Carers Ltd aims for best practice in keeping records of Clients and the care delivered to them and will endeavour to maintain records that are factual, consistent, accurate, relevant and useful. Client records will not include unnecessary abbreviations or jargon, meaningless phrases, irrelevant speculation, subjective statements, or irrelevant personal opinions.

**Living Carers Ltd requires staff not to gossip, and to take care when discussing cases in public places.**

### **Key Question: How do I keep Client information physically secure?**

Living Carers Ltd will take a number of measures to ensure that confidential Client information is secure including:

- Not leaving portable computers, care case notes or files, unattended in cars, other Clients' houses or in easily accessible areas;
- Storing all files and portable equipment under lock and key when not actually being used;
- Keeping manual records secure by shutting/locking cabinets as required;
- Not leaving Client information on computer screens when the computer is unattended;
- Ensuring that the computer's screen saver facility is applied and secure passwords are used.
- Disclosing and using information with appropriate care.
- Ensure all data is held in compliance with the data protection act 1998

Living Carers Ltd will:

**Ensure that established information-sharing protocols are observed at all times;**

**Identify enquirers so that information is only shared with the right people;**

**Ensure access to information is authorised by an appropriate manager/Director**

**Ensure that appropriate standards of protection are applied in respect of emails, faxes and surface mail;**

**Share the minimum necessary to provide safe care or to satisfy other purposes. (see the Caldicott principles below).**

**Ensure any access to personal information is appropriate to the business purpose.**

**Ensure information is accessed on a role-appropriate basis and access to information will be removed or blocked to users who have changes roles or left the organisation.**

### **Breach of Data Protection**

**If any Data Protection breach occurs, it is the duty of all Living Carers Ltd Staff to immediately inform their Line Manager/Registered Manager.**

It is the duty of all Living Carers Ltd Managers to report any such breaches to relevant organisations. For example: Police/Local Safeguarding team.

All breaches will be subject to disciplinary procedures as set out in the Disciplinary Policy.

### The Caldicott Principles

The Caldicott Report set out a number of general principles that health and social care organisations should use when reviewing its use of client information and these are set out below:

1. Justify the purpose;
2. Don't use Client identifiable information unless it is necessary;
3. Use the minimum necessary patient identifiable information;
4. Access to identifiable information should be on a strict need to know basis;
5. Everyone should be aware of their responsibilities;
6. Understand and comply with the law.

### Disclosure of confidential information by Living Carers Ltd

Living Carers Ltd is expected, on occasion, to share confidential Client information between members of care teams and between different organisations, in order that the Client is able to receive, overall, the highest quality care.

The information may be needed for care purposes involving the Client, (such as delivering the correct care, arranging for care or co-ordinating care) or for such matters as clinical governance or clinical audit.

Clients may object to the routine disclosure of information described above if they wish, although they will be advised that this may not be in their best interests, as Clinicians cannot usually treat patients safely, nor provide continuity of care, without having relevant information about a patient's condition and medical history.

In circumstances where Clients have been informed of:

- a) the use and disclosure of their information associated with their care; and
- b) the choices that they have and the implications of choosing to limit how information may be used or shared;



Then explicit consent is not usually required for information disclosures needed to provide that care. However, any explicit objection to disclosure must be acted upon, and fully documented in the Client's file. It will be made clear to the Client that they can change their mind at a later date. Living Carers Ltd is not normally associated with any activities which are not directly related to the provision of care to Clients.

However, where confidential information is requested, but does not satisfy the tests of necessity and appropriateness that must govern the use of identifiable Client information, then it will, where possible, be anonymised to protect the Client. In all other circumstances, efforts will be made to obtain and record consent from the Client unless there are statutory grounds for setting confidentiality aside or robust public interest or important safety/security issues exist.

The legal considerations in more detail:

There are a range of statutory provisions that limit or prohibit the use and disclosure of information in specific circumstances and, similarly a range of statutory provisions that require information to be used or disclosed. Generally, there are three main areas of law which constrain the use and disclosure of confidential personal health information, and which relate to the conduct and performance of Living Carers Ltd:

- **Data Protection Act 1998;**
- **Human Rights Act 1998.**
- **Common Law of Confidentiality**

The key principle is that information confided should not be used or disclosed further, except as originally understood by the confider, or with their subsequent permission.

Living Carers Ltd will therefore ensure that Clients are properly informed of the use of their personal information, and will, where necessary, seek explicit permission to disclose in circumstances where consent has not been reasonably implied or assumed.

### **Data Protection Act 1998**

This Act provides a framework that governs the processing of information that identifies personal data relating to living individuals.

Processing includes holding, obtaining, recording, using and disclosing of information and the Act applies to all forms of media, including paper and images. In the context of confidentiality, the most important data principles, outlined in the Act refer to data and information being processed lawfully and fairly; personal data being processed for one or more lawful purposes and the protection of personal data against unlawful processing and against accidental loss, destruction or damage.

### **Human Rights Act 1998**

Article 8 of the Human Rights Act 1998 establishes a right to “respect for private and family life”. This underscores the duty to protect the privacy of individuals and preserve the confidentiality of their health records. Current understanding is that compliance with the Data Protection Act 1998 and the common law of confidentiality should satisfy Human Rights requirements.

## Key Points to Take Away

- Living Carers Ltd and its staff will respect and protect all confidential information concerning its Clients at all times.
- Living Carers Ltd is expected, on occasion, to share confidential Client information between members of care teams and between different organisations
- If any Data Protection breach occurs, it is the duty of all Living Carers Ltd Staff to immediately inform their Line Manager/Registered Manager

## After reading this Policy, you should be able to:

- Understand what confidentiality relates to
- Understand what Data Protection Act 1998 means
- Understand that all confidential information should be kept secure.

If you have not achieved any of these points, please ask your Line Manager or trainer for further help.

## Policy Review

This policy will be reviewed by the Registered Manager at least annually to make any updates and amendments necessary to ensure the policy conforms to current legislation, reflects current practice and expectations.

## Authorisation and Signature

This Policy is the official and authorised version agreed by the Directors of Living Carers Ltd. All employees are expected to work in accordance with this policy and failure to comply with this policy could result in disciplinary action.

### Registered Manager

04.12.2017

LIVING CARERS