

May 2014

Confidentiality Policy relating to service users

This document is relevant to:	
Central Support Services	✓
Operational Services	✓
Community Engagement	✓

Introduction

- 1 This policy applies to all employees, volunteers, sub-contractors and agents who work for or represent Livability (Livability’s representatives) and have been properly authorised to access personal information about individuals who may use, are using and have used Livability’s services (service users).
- 2 Every service user has rights with regard to how their personal information is handled.
- 3 Information held about service users is confidential and disclosure of such information without consent or otherwise inappropriately may amount to a breach of the obligations of confidentiality we owe to them.
- 4 ‘Confidential’ means keeping information private and secure, but it’s not the same as being kept ‘secret’.
- 5 Service users under 18 have the same right to confidentiality as adults.
- 6 Anyone using or processing personal information about service users (this includes passing it on to third parties outside Livability) must comply with the principles of good practice set out in this policy which is based on the Data Protection Act 1998 (the Act). This is particularly important because the personal information about service users we deal with is often known as “**sensitive personal data**” (**information**) because of service users’ needs and requirements. This includes information about a service user’s racial or ethnic origin, political opinions, religious or similar beliefs, physical or mental health or condition or sexual life, or about offences and court proceedings.
- 7 We do not process non sensitive personal information any differently from sensitive personal information, but **sensitive personal information can only be used under strict conditions, and will usually require the express (ie written consent) of the person concerned or their**

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representative. For non sensitive personal information consent to use it can be inferred if this would be consistent with the actions of the service user – for example, where a service user agrees to become a resident in one of Livability’s care homes.

- 8 Service users or their representatives can ask to see any written records if they so wish except in exceptional circumstances. A representative is someone who acts on behalf of a person without mental capacity and may be a Donee or an Attorney under a power of attorney, a Deputy appointed under the Mental Capacity Act, or a person with parental responsibility (usually a parent or guardian). Representatives may also be appointed by a local authority and so other relatives may hold this post where a parent is unavailable, unwilling or unable to do so. Care should always be taken to ensure someone acting on behalf of a service user has sufficient authority.
- 9 Where information about a service user also contains a reference to third parties, a request to access this may be refused if Livability owe a duty of confidentiality to that third party or disclosure would otherwise be a breach of the Act.

Policy

- 10 During the course of our activities Livability will collect, store and process personal information about our service users and we recognise the need to treat it in an appropriate and lawful manner.
- 11 When we collect personal information, we will inform the service user on how their information will be used. In general, we will inform them on:
 - the identity of the person collecting the information (ie information is being collected as an employee, volunteer, or representative on behalf of Livability);
 - the purpose or purposes for which we intend to process the information being collected; and
 - any extra information we may need to give service users in the circumstances to enable us to process the information fairly. This will depend on the nature of the information being collected, the intended use of it, and what the service user would likely or reasonably expect from us - for example do we intend to share their personal data with third parties; do we intend to use their personal data for publicity or marketing purposes.
- 12 This information about service users, which may be held on paper or on electronic systems (ie computers) or other media, is subject to legal safeguards as set out in the Act and other regulations.
- 13 Livability is committed at every level and in all aspects of the services it offers to provide a confidential service to all service users. Confidentiality

is between the individual service user and the organisation (Livability) not between the individual service user and the Livability representative; however information will only be shared within Livability on a 'need to know' basis to be determined by a senior manager.

- 14 In order that we can provide the best possible help to our service users it will be necessary to share information securely within Livability and with public authorities that contract with Livability to provide services to service users and potentially to other third parties outside the organisation.
- 15 Information will only be passed to third parties outside the organisation with the consent of the service user except where extenuating circumstances exist such as where Livability thinks that they or someone else is in serious danger. This means that information will be treated in the utmost confidence and, without the consent of the service user,
 - will not be divulged to any third parties outside the organisation, and, in the case of children or young people with the maturity and ability to decide the matter on their own behalf , even to a person who is a member of their family;
 - no conversations about a service user will take place with anyone who does not work or volunteer for Livability, or is engaged by Livability in a professional capacity and is subject either to contractual obligations relating to confidentiality or is subject to a professional code of conduct with similar obligations.
- 16 Where Livability does pass on any information without permission due to an extenuating circumstance Livability will wherever this is reasonably practical discuss the issue with the service user first and support them through whatever happens as a result of sharing that information.
- 17 It is the policy of Livability to set rules on data protection which must be satisfied in relation to the obtaining, handling, processing, storage, transportation and destruction of personal information about its service users. **For further information, please read the Information Security policy.**
- 18 It is the policy of Livability to review this policy annually.

Exceptions

- 19 In certain circumstances Livability reserves the right to break confidentiality if it is deemed necessary. These circumstances include:
 - i. If the service user is under 18 and they disclose information that may indicate risk to children.
 - ii. If the service user is over 18 and considered vulnerable and they disclose information that may indicate risk to vulnerable adults.

- iii. If Livability believes that a service user could cause danger to themselves or to others.
 - iv. If a service user has information which indicates that a crime has been committed.
 - v. If a service user has information which indicates a possible terrorist threat.
 - vi. Where required by law or judicial process.
 - vii. Where requested by the police or other regulatory agencies for the purposes of investigating or preventing crimes and/or catching or prosecuting offenders or by their professional advisers where reasonably necessary for the performance of their professional services.
- 20 Livability acknowledges that generally adult service users who are able to take their own decisions remain responsible for their own lives even if that means they decide to take their own life. But in circumstances in which a service user may be considering committing suicide Livability will encourage the service user to get help and support from the appropriate authority and will encourage them, if necessary, to call an ambulance.
- 21 In all of these cases, if a decision has to be taken to break confidentiality, it will be done only after the matter has been considered by a senior manager. The manager will keep careful notes of any such decision and all action taken, and the consequences of it will be recorded.

Use of service user information for publicity purposes

- 22 Livability does wish to be able to publicise the numbers of people using its services and also to be able to give information where appropriate about the kind of services that are being received by service users.
- 23 Wherever possible the permission of the service user or their personal representative (as appropriate) will be sought in writing before personal information is used for publicity purposes.
- 24 If permission cannot be obtained then any details that would enable identification of the client to be made will be changed.
- 25 In some instances, Livability may wish to make information available to public bodies and the media about the kind of services we are providing and the situations they deal with. In these cases composite or fabricated case histories will be used and will be identified as such.

Use of service user information for training purposes

- 26 Personal information about service users will be adapted for training purposes to prevent identification of service users.

Evaluation and monitoring

- 27 In order to maintain and improve the level of service being offered by Livability, personal information (data) will be collected to assist in planning, marketing and supervision.
- 28 Data collected will have the sole purpose of enabling us to evaluate and monitor the services we are offering and will not, under any circumstances contain personal information.

How Livability will implement this policy

29 By compliance with the Data Protection Principles

- i. Livability will take all reasonable steps to ensure that anyone using (processing) personal data complies with the eight enforceable principles of good practice set out in the Act. In summary, these provide that personal data we hold must be:
- 1 Processed fairly and lawfully
 - 2 Obtained and processed only for specified purposes and in an appropriate way
 - 3 Adequate, relevant and not excessive for the purpose
 - 4 Accurate
 - 5 Not kept longer than necessary for the purpose
 - 6 Processed in line with data subjects' rights
 - 7 Secure
 - 8 Not transferred to people or organisations situated in countries without adequate protection.

30 By ensuring information security

Livability will take all reasonable steps to ensure that appropriate security measures are taken against unlawful or unauthorised use of personal information, and against the accidental loss of, or damage to, personal information. Livability has in place procedures and technologies to maintain the security of all personal information from the point of collection to the point of destruction. Unless one or more of the

exceptions above apply personal information will only be transferred to a third-party to use if they agree to comply with those procedures and technologies, or if they put in place adequate measures themselves.

31 By ensuring responsibilities are both clear and known.

Responsibilities

32 Staff and Volunteers – are responsible for:

- i. Using personal information including sensitive information in accordance with this policy and the associated procedures.
- ii. Adhering to the confidentiality clauses in their job description and (where applicable) job contract.

33 Managers – are responsible for:

- iii. Making the Confidentiality Policy known and ensuring all staff and volunteers read the policy when they join Livability.
- iv. Ensuring that all staff and volunteers are able to give information about the Confidentiality Policy if asked.
- v. Ensuring all new staff are given training in its application and take steps to ensure that existing staff understand its application.
- vi. Ensuring all service users are told how their personal information will be used, and signed permission is obtained.

34 Company Secretary – responsible for:

- vii. Regular review and revision of this policy.
- viii. Annual notification to the Information Commissioner.

Associated Policies and Procedures

- Information and Communications Systems policy
- Information Security Policy
- Information Governance Policy
- Risk Management policy
- Education (Victoria Education Centre) Case Records policy
- ICT Security Procedure
- Archiving and retention of documents procedure
- Trustee Code of Conduct
- Employee Code of Conduct
- Information Governance Staff Guidance Notes

POLICY OWNERSHIP

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Confidentiality Policy	2.0

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June 2014	June 2015

Approval status:

Approved By:	Signature:	Date:
Company Secretary	<i>Mike Langworth</i>	June 2014

Consult the Intranet for the latest version of this procedure.

Document Control:**Reviewers:**

Name:	Position:
Mike Langworth	Company Secretary

Change History:

Issue:	Date:	Author:	Reason:
1.0	Oct 2008	Mike Gilson	Data protection and confidentiality policy
0.1	Nov 2010	Mike Langworth	Initial draft of confidentiality policy
0.2	Dec 2010	Mike Langworth	Second draft
1.0	Jan 2010	Mike Langworth	Final draft of confidentiality policy
1.1	August 2012	Mike Langworth	Review and updating
2.0	May 2014	Ufuoma Odeka	Review and updating

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