



## **General Manual**

**Subject: Life Confidentiality Policy**

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### **1. Purpose of the Policy**

The purpose of this policy is

- To ensure the highest respect for staff, volunteer, client and beneficiary information.
- To take reasonable steps to protect all beneficiaries', staff, volunteers, those connected with the activities of the charity and who come into contact with the charity from harm.
- To provide guidance to employees and volunteers on the extent to which confidentiality is to be preserved, circumstances in which they may breach confidentiality, and measures to be taken for the safeguarding of information.

**This policy should be read in conjunction with Life's GDPR and Data Protection Policy, Life's Safeguarding Policy.**

- This policy covers not only information given at the free will of the individual but also information acquired accidentally or through observation, and third-party information.

### **2. Scope of Policy**

This Policy applies to all Life Staff (including Trustees), volunteers, investors and contractors who may have access to confidential information. Any breach of the Policy is likely to constitute a serious disciplinary matter for the individual concerned. This could constitute gross

misconduct for which an offending employee may be dismissed without notice. It may also cause serious damage to the reputation and standing of Life

### **3. How we will protect Confidentiality**

#### **3.1 To protect confidentiality, we will:**

- Keep confidential information secure. Only staff and volunteers with a “need to know” reason will have access to said information. This includes client records which will be
  1. Recorded on Pregnancy Matters™ paperwork which is governed by our association with B.A.C.P and GDPR.
  2. Kept in line with B.A.C.P Code of ethics.
- Where necessary give an individual a unique identification number to help secure confidentiality.
- Not pass on information given to us to anyone outside of the Charity, unless a legally justifiable need arises.
- Always try to gain consent when a need arises to share information .
- Ensure all Life Staff and volunteer receive compulsory GDPR training in line with their role with us. All other relevant training around confidentiality will be led in line with Departmental needs.

**It is important to recognise that we cannot ensure complete confidentiality. There may be occasions when we might have to break confidentiality in the interest of safety, such as immediate risk to life or welfare of an individual(s). We would always aim to discuss this with the individual(s) first, but this cannot be guaranteed.**

#### **3.2 Care of information**

All sensitive and confidential information around staff, volunteers, clients and beneficiaries is stored securely. Paper records are kept within a locked cabinet or within a safeguarded password protected data base.

#### **Life staff and volunteers will take care:**

- Not to be overheard when discussing confidential information on the phone, or with the client or appropriate staff.
- Not to leave information lying around and to keep confidential information in locked filing cabinets when not in use.
- To keep records which include no more than the minimum information required.

Life staff and volunteers will understand that when referring to records, legally this includes:

- Diary in which appointments are made
- Any surviving jottings on scrap paper made before client notes are made
- Client drawings or writing made in any sessional work
- Reviews and reports
- Emails
- Notes prepared in readiness for supervision
- Any audio, video, recorded telephone messages that are in existence.
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All confidential records regarding staff, volunteers, clients and beneficiaries should stay within a Life premises. In certain cases, it may be necessary for staff to take off site. Necessary action should be taken to safeguard any confidential documents e.g coded lock box. Discuss this issue with your line manager

### **3.3 Destroying confidential documents and information**

All records and information must be destroyed when it is no longer required in line with Life retention timeline. Please see GDPR Policy .

## **4. Circumstances in which confidentiality may be breached**

We cannot guarantee complete confidentiality due to certain legal obligations upon us to ensure the safety and protection of individuals or protection of the Charity. Legal and statutory requirements affecting Life and Pregnancy Matters™ include, but are not limited to:

- Reporting accidents at work, in certain circumstances, to the Health and Safety Executive.
- Replying to certain specific enquiries from Government Departments e.g. Dept. of Employment or Dept. of Social Security, or the Inland Revenue. Not all such enquiries are covered by statutory requirements so a check on the legal status of the request will be made before supplying information.
- Providing names of residents of a house in multiple occupation for Council Tax purposes, if Pregnancy Matters™ is designated the "responsible person".
- Reporting information in regard to terrorist activities, drug or person trafficking or money laundering (Drug Trafficking Act 1994, Serious Crime Act 2007, Money Laundering Regulations 2007)
- Giving evidence in court if a subpoena is issued.
- Reporting notifiable diseases to the Director of Public Health where appropriate.

## **5. Breaking Confidentiality.**

### **5.1 Consent to break confidentiality**

Consent is the approval or agreement for information to be shared with a third party. For consent to be legally valid, the individual must be informed, must have the capacity to make the decision in question and must give consent voluntarily. This means individuals should know and understand how their information is to be used or shared and they should understand the implications of their decision, especially where it may affect the ability of the Charity to support them or their relationship with the Charity afterwards. This applies to both explicit and implied consent.

**5.2 Explicit Consent** – is unmistakeable. It can be given in writing or verbally or conveyed through another form of communication such as signing. A person may have capacity to give consent but may not be able to write or speak. Explicit consent is required when sharing information with people who do not have access to a person's confidential information that you are responsible for, or if consent is being sought for using the information you hold for a different purpose than when it was originally required. It may also be needed when sharing information around a third party.

**5.3 Implied Consent** - This is where consent from the individual is not expressly spoken or written but can be taken as understood, for example nodding agreement or accepting care from someone.

Although the person hasn't given verbal or written consent, circumstances exist that would cause a reasonable person to believe the other had consented. The process of informing the person and seeking consent need not be followed where the consent of the person concerned can be implied, for example where a reference is requested, where the Dept. of Employment asks for information about a former employee in order to pay benefit or when a client has signed a disclaimer on a referral form.

### **5.4 Breaching Confidentiality**

Breaching Confidentiality is the disclosure of information to someone without the consent of the person who owns it. Life recognises that occasions may arise where there needs to be a breach in confidentiality because:

- Life owes a “duty of care” to staff, volunteers, clients, and beneficiaries. It may therefore be necessary to break confidentiality in cases where a person is acting, or likely to act in a way that could cause serious harm to themselves, or put others at risk.
- Life has a legal obligation towards children and Adults at risk of harm. If staff or volunteers know or suspect that a child or an Adult at risk may be in danger of harm they have a duty to inform the relevant safeguarding boards and service(s).
- Life's policy is that its employees and volunteers have a duty in the public interest not to withhold from the police, especially information concerning criminal activity of a serious nature. This should preferably be done with the knowledge of the person concerned and whenever possible with their cooperation but there may be circumstances where the risk to others is too great for this to be advisable or possible.

## **6. Sharing Information**

Where it is thought necessary to share information with another individual or organisation this will be assessed on the basis of their application and full consideration of whether there is a legal duty to disclose information. Where possible the individual(s) will be advised verbally that information has been requested and by whom. Where possible the consent of the person(s) about who the request has been made will be sought.

Where there is a legal duty to pass information to others, such information will only be passed after discussion and approval of Managers and Heads of Department. Staff are not permitted to pass on such information without this approval. Where there is no legal obligation but there may be a duty of care to pass on information, the decision whether to do so will remain a decision of Departmental judgment or necessary need due to Safeguarding concerns .

### **Points for consideration are:**

- Is the risk a real one?
- How great is the danger to self or to another person?
- Will the breach of confidentiality avoid the harm?
- Is there no other way of avoiding the harm?

Where it is decided that information must be passed on to another individual or organisation the basis on which disclosure is to be made must be clear and unambiguous. Those disclosing the information must first have an understanding as to the intended use of the information requested and by whom.

Requests from statutory bodies must be submitted in writing (email or letter), even when there is a legal obligation on Life to comply with the request.

## **7. Complaints**

People who wish to make a complaint about an aspect of Life, it's services, employees or volunteers may be concerned about the confidentiality of information they are giving. The preservation of confidentiality will be given high priority, subject to the exceptions listed above in section 6 and/or if it is necessary to breach confidentiality to properly investigate the complaint. The permission of the complainant will always be sought for this but in cases where the welfare of the complainant or other people is seriously at risk it may be necessary to breach confidentiality even if that permission is withheld.

## **8. Access to information**

Clients have a right to see their personal files. Access must be granted under supervision in order to protect the confidentiality of other people's files and/or third-party information. It may be necessary for the client to request access in writing and for an appointment to be made. An appropriate staff member should be present to answer any questions that may arise. The file may not be removed from Life premises, but documents may be photocopied, on request. A charge may be made for this at the discretion of the charity.

When a letter about an individual is written to Life by a professional or carer the writer should be informed that the client is permitted access to his/her file and their advice sought on what action they wish Life to take. This could include returning the letter to the sender or, in exceptional cases, keeping the letter in a separate confidential place.

## **9. Disciplinary Consequences**

Employees who do not respect Life's confidentiality policy may face disciplinary and possibly legal action.

In line with Life volunteer code of conduct any volunteer that commits a serious breach in breaking confidentiality policy will be required to step down from their volunteer position.

We will investigate every breach of this policy. Life will have the right to terminate any employee in line with our Disciplinary Policy or dismiss any volunteer who wilfully or regularly breaches these confidentiality guidelines for personal profit.

Employees or volunteers should not:

- Use confidential information for any personal benefit or profit
- Disclose confidential information to anyone outside of the charity
- Replicate or change confidential documents or files without Departmental Heads permission
- Use insecure or personal devices for viewing confidential information
- When no longer working for the charity the individual is obliged to return any confidential files or information

## **10. Whistleblowing**

Whistleblowing is a term used to refer to the disclosure by employees or volunteers of malpractice either internally or externally, as well as illegal acts, or omissions at work. Whistleblowing is viewed by Life as a positive act that can make a valuable contribution to the Charity's efficiency and long-term success. It is not disloyal to colleagues or to Life to speak up. We are committed to achieving the highest possible standards of practice. To help achieve these standards we encourage freedom of speech.

Legislation which guides this document.

- Children Act 1989 2004
  - Care Act 2014
  - Mental Capacity Act 2005
  - Human Rights Act 1998
  - Sexual Offences Act 2017
  - GDPR and Data Protection Act 2018
  - Please be aware separate Acts apply to Northern Ireland, Scotland, Jersey and Isle of Man.
- Drug Trafficking Act 1994
  - Serious Crime Act 2007
  - Laundering Regulations 2007
  - Health & Safety at Work Act 1974
  - Public Disclosure Act 2013

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### Life polices - GDPR compliance

- I have read and understood the Life GDPR Policy and confirm that the policy above fully complies with it in all areas ☒
- Lawful basis for this policy (tick which one(s) apply)
  - Legal obligation ☒
  - Legitimate Interest ☒
  - Contract ☐
  - Vital Interest ☐
  - Consent ☐
  - Special Category (e.g. Children's data) ☐  
Please state the purpose for special category \_\_\_\_\_
- I confirm that all personal data is:
  - held only in the locations detailed in this Policy ☒
  - used only for the purposes stated ☒
  - held securely ☒
- A Data Processor Agreement is in place with all external organisations (Data Processors) who are in receipt of personal data under the terms of this Policy:  
(tick to confirm) ☐

5. The relevant Privacy Notices under this Policy have been published in an appropriate manner:  
(tick to confirm) ☐

6. The person(s) responsible\* for data protection covered by this policy are:

\_\_\_\_\_ (date) \_\_\_\_\_

\_\_\_\_\_ (date) \_\_\_\_\_

7. As the above named person I confirm that this Policy complies with the General Data Protection Regulations 2018

Signed \_\_\_\_\_ Liz Lloyd \_\_\_\_\_

Name \_\_ Elloyd \_\_\_\_\_

Date \_\_ 1<sup>st</sup> June 2020 \_\_\_\_\_

Note: \* Life has chosen not to appoint a Data Protection Officer which is permitted under GDPR and so this responsibility is devolved to the appropriate person named under this Policy.

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