



OTR Confidentiality Policy January 2023

Confidentiality Policy

Review date: January 2026

1. Introduction

Off The Record (OTR) provides a range of services for children and young people, and as part of our working relationship with young people, we will be clear about how we will use the information they share with us. This policy sets out our position in relation to confidentiality when working with children and young people across our services.

2. Definition of Confidentiality

Confidential refers to 'something which is spoken or given in confidence; private, entrusted with another's secret affairs'. When speaking confidentially to someone the person confiding (the confider) has the belief that the person they are telling (the confidante) will not discuss the content of the conversation with another. The confider is asking for the content of the conversation to be kept secret. Anyone offering absolute confidentiality to someone else would be offering to keep the content of his or her conversation completely private and discuss it with no one. In practice there are few situations where absolute confidentiality is offered (*please also see OTR's safeguarding policy and Data Protection policy*).

Safety of the child/ young person is paramount and therefore there may be circumstances where confidentiality is legitimately breached, in line with our Safeguarding policy.

Confidentiality exists between the child / young person and the organisation as a whole not between the child/ young person and the individual worker within the context of OTR's Confidentiality policy.

3. Purpose

OTR is committed to adopting practices and procedures which ensure confidentiality in respect of information relating to the service users of the organisation. Confidentiality is an important part of forming a trusting relationship with the children/ young people using our services, with the aim of respecting the individual and supporting self-determination. Within OTR children and young people will be respected as responsible individuals in their own right and never solely in terms of their issues and concerns.

The independent status of OTR allows the organisation the liberty to offer children and young people the confidentiality that is essential for both the credibility of the organisation and the effectiveness of the work that is carried out by OTR.



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4. Principles

Off the Record is committed to protecting personal information shared in confidence by children and young people as long as it is within public interest.

Children and young people have the right to privacy and with this a right to control confidential information. They will be informed of their right to a confidential service and the limitation of this when staff first meet with them. This will also be reiterated as and when necessary.

Disclosures of confidential information will be managed on the basis of informed consent. If there are any breaches of confidentiality, the children and young people will be told what information was shared, by whom and when, as soon as possible.

5. To whom does the policy apply?

OTR's confidentiality policy will apply equally to members of the Board of Trustees, staff, volunteers and any person contracted by OTR (collectively "staff").

Confidentiality issues will be covered in all induction programmes for Board of Trustees, staff, volunteers and contracted workers.

6. Internal Confidentiality

OTR will sensitively share information about service users within the boundaries of staff, volunteers and management of the organisation, where necessary and appropriate.

Information may be shared regarding individual children and young people within the team or between OTR services where it is regarded as being beneficial to the needs of the child or young person. Individuals should be made aware of this and no promises made that we will never share information and issues within the staff groups of OTR. It can be made clear at the time that staff may need to do this not only for staff support but also to provide a better service for individuals.

Care will be taken to ensure that issues are not discussed within the hearing of others who are not part of the staff and volunteer team. Preferably information regarding children and young people will need to be discussed in line management meetings to ensure:

- OTR's Safeguarding Policy is implemented
- Case review, and
- Quality assurance of service delivery

Any Advocacy work undertaken within OTR is the exception to the above (internal confidentiality). Information regarding young people who access the Advocacy service is confidential to the Advocacy service. This is replicated within our iaptus database – only staff working on Advocacy, along with system administrators at OTR will have access to the advocacy data inputted.



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7. Information to Third Parties

As a general rule, except in exceptional circumstances (please see below), no information about a particular individual with whom we are working should be given to any third party or agency without the permission of the individual concerned. They should be informed of the contact and substance of the conversation as soon as possible. No information will be requested of third parties regarding individuals by staff without the prior permission of the person concerned.

See our Non-Instructional Advocacy Policy for details on how we make best interest decisions in relation to sharing information.

Please also see Data Protection policy and Safeguarding policy.

8. How we use Information from Third Parties

OTR will receive information from parents and professionals in relation to children and young people (identified in section 5 as our service users) and will share this information with the child and young person where appropriate. As a person-centred service, our service users have the right to clarify how we use this information. However, if the information indicates the child or young person could be at risk of harm (or others may be at risk of harm), then OTR will use the information in line with our Safeguarding policy.

9. Exceptional Circumstances

9a) Breaching confidentiality.

There may be exceptional circumstances where confidentiality may be breached when the child, young person or third parties are at risk or in immediate danger, or as defined in the OTR Safeguarding Policy. The process will be followed as per that Safeguarding policy.

There is no prescriptive list to cover all occasions but examples could be:

- Where the person concerned is clearly putting themselves at risk of harm.
- Where the emotional or mental state of the person concerned is such that it puts their own or third parties lives or safety at risk.
- Where a third party is at risk of danger or abuse.
- If it is believed there is information which must be disclosed under the Prevention of Terrorism Act.

In such cases staff and volunteers should follow OTR's Safeguarding Policy.

Note that where information about a child or young person is shared in writing, the name of the children and young people will only be used if communication channels are secure. See OTR's Data Protection Policy.



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9b) Withholding information in advocacy.

An Advocate supports individuals to have their voice heard, represent their interests, ensure their rights are upheld and to obtain services they require. We also support by challenging decisions where appropriate and in line with the individual's wishes.

There are times when an advocate might withhold information from a child or young person due to the nature and impact of sharing that information. An advocate will need to identify this information and why it could harm or put at risk the child or young person if it was shared with them. They then need to consult with their manager and have a professional discussion to agree the and reflect on the implications. The decision will then be jointly made and need to be documented on the database.

10. OTR Safeguarding Training

All staff are required to undertake the OTR Safeguarding training through BANES Local Safeguarding Children Board. This training will assist them in understanding the procedures for processing issues of concern. It is a mandatory requirement for all staff to familiarise themselves with these procedures on a regular basis.

11. Confidentiality in Relation to Parents, Carers & Concerned Others

11a) Parental / Carer consent is not required:

- To provide information, support or counselling as part of OTR's services.
- To provide advocacy, support and/or information

It is important that children in care are able to contact and consult the Advocacy service in confidence and that they have control over what information, if any, is relayed to their social worker / carer (subject to the OTR Safeguarding Policy). If confidentiality is not maintained, this could affect take up of the service.

11b) Parental / Carer consent is required when:

- Meeting the child or young person under 18 years in premises or spaces which do not deliver services that the child or young person is already attending.
- Taking groups of children and young people participating in our services on activities not held in our premises.

Consent forms will clearly indicate what consent is being sought for and will require a signature of a parent/ carer.

11c) Other areas of confidentiality relating to Parent, Carer and concerned others

Parents, carers and concerned others will not be able to sit in on one to one support, counselling or advocacy sessions. Staff are not required to offer support, counselling or advocacy for the child/ young persons family/ carer.

OTR respects the choice of parents to refuse consent or to withdraw a young person from a service if they are legally entitled to do so.



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Staff will on no account disclose client information to other children and young people including siblings and/ or friends without the permission of the individual concerned and then only limited to what is fit for purpose or necessary.

12. Confidentiality within the Counselling Service

All Counsellors adhere to the framework of the Confidentiality Guidelines outlined in the British Association of Counselling and Psychotherapy (BACP) Ethical Framework for Good Practice in Counselling and Psychotherapy.

OTR agrees with the following principles as outlined in the BACP Guidance on Good Practice namely that *“respecting client [child / young person] confidentiality is a fundamental requirement for keeping trust. The professional management of confidentiality concerns the protection of personally identifiable and sensitive information from unauthorised disclosure. Disclosure may be authorised by client consent or the law. Any disclosures should be undertaken in the ways that best protect the client’s trust. Practitioners should be willing to be accountable to their clients and their profession for their management of confidentiality in general and particularly for any disclosures made without their clients consent.”*

As a confidential service, information relating to the content of the counselling or the specific arrangements for appointments will not be disclosed to parents, carers etc. without the express permission of the individual child/ young person. This includes confirmation of attendance or whether a child / young person is in the building or has left the building.

13. Unauthorised Breach of Confidentiality

An unauthorised breach of confidentiality is grounds for a child/ young person to make a complaint, in which case they should be advised using guidance from the *OTR Complaints Policy*.

An unauthorised breach of confidentiality may result in disciplinary action being taken against staff.

14. Records

The purpose of keeping records is to:

- Retain details of personal information such as contact details, emergency contact details and agreement for activities or assistance.
- Track the progress of children and young people.
- Keep an up-to-date record of any support provided by the organisation including referring children and young people onto third parties etc.

OTR has a *Guidance for writing client notes* document that sets out our expectations and considerations for staff and volunteers when they are recording work carried out.



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14.1 Access to records – subject access request

All service users and customers have the right to request:

- Access to all information stored about them. A fee may be payable by the data subject for provision of this information. Any subject access requests will be handled by the Data Protection Officer within the required forty calendar days.
- Prevention of processing of their data for direct marketing purposes
- Inaccurate data be amended.
- Prevention of processing that is likely to cause damage or distress to themselves or anyone else

Service users are entitled to have access to their records, and can do so by following the guidance in the Data Protection Policy, under Subject Access Request section.

OTR will offer to assist any child or young person to access their records by offering to read and explain them.

Subject access requests must be in writing. All staff and volunteers are required to pass on anything which might be a subject access request to the Data Protection Officer without delay.

All those making a subject access request will be asked to identify any other individuals who may also hold information about them, so that this data can be retrieved.

Where the individual making a subject access request is not personally known to the Data Protection Officer their identity will be verified before handing over any information.

The required information may be provided in permanent form (information/copies of data in writing or in digital form) unless the applicant makes a specific request to be given supervised access in person.

Off the Record will provide details of information to service users who request it unless the information may cause harm to another person.

14.2 Security of records

Any recorded information/data about service users, volunteers and staff will be:

- Kept on our database that is password protected.
- Kept in locked cabinets.
- Protected by the use of passwords/encryption if kept on computer.
- Destroyed confidentially if it is no longer needed, e.g. Paper documents will be shredded or burned and electronic storage devices will be physically destroyed

Staff should ensure that individual monitors do not show confidential information to any



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'passers-by' and that they log off or lock their computer when it is left unattended

OTR has a database -iaptus - to record and monitor work with service users, which works to the highest security standards and requires a two-stage login process.

OTR has enabled the following password and security measures for iaptus for all users:

- Minimum of 8 characters
- A Capital letter.
- A lower case letter.
- A symbol
- Password will be required to be refreshed every 60 days.

See also the OTR Data Protection Policy and OTR ICT Acceptable Use Policy.

14.3 Retention and destruction of records

Each service within OTR stores the data and work carried out with service users on the iaptus database.

OTR will regularly review its procedures for ensuring that its records and personal data remain accurate and consistent. Inaccurate or out of date data will be destroyed. Personal data should not be kept longer than is necessary for the purpose.

OTR stores archived paper records of service users, staff and volunteers securely in the office these will be disposed of after 7 years have elapsed. Records kept on iaptus will also be deleted from the system 7 years after their work with OTR has been closed or completed.

15. In Conclusion

Issues of confidentiality are often complex and staff within Off the Record may find it difficult to decide the best course of action. If you are unsure please ask your line manager for advice.

Relevant Legislation

The Human Rights and Data Protection Acts need to be taken into consideration:

- **Human Rights Act 1998**

Gives everyone the right to 'respect for their private and family life, their home and their correspondence' unless this is overridden by the public interest e.g., for reasons of safeguarding, for the protection of public safety, public order, health or the rights and freedoms of others.

- **Data Protection Act 2018**

Applies to personal data of living, identifiable individual's not anonymous data – both paper based and electronic records. Staff need to be clear when dealing with personal



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data for what purposes it will be used and need to be familiar with the OTR Data Protection policy

- **GDPR 2018**

The new EU General Data Protection Regulation (GDPR) came into force on 25 May 2018 and impacts every organisation which holds or processes personal data.

- **UN Convention on the Rights of the Child 1991**

The UK Government agreed to ratify the Convention on the Rights of the Child on 16 December 1991. It must be noted that this means they agree to do everything to implement the convention, but that it is not legally binding. For more information on the Convention please access <http://www.childrightsnet.org>"

Staff / Volunteers Signing Up To Policy

There is an expectation that all staff will sign up to this OTR Confidentiality Policy and a copy of the signed document will be held on their personnel file. This can be done electronically.

Off the Record Staff & Volunteer Declaration

I have read the Confidentiality Policy above and agree to abide by its rules and guidelines.

Staff/Volunteer Name: _____

Signature: _____

Date: _____