

Confidentiality: guidance for professionals working with problem drinking parents



Also in the series

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- Parenting, alcohol misuse and treatment service provision
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The Parenting & Alcohol Project



Confidentiality: guidance for professionals working with problem drinking parents

During November 2005 several consultation events were held with professionals from both the alcohol and children and families fields. One

of the main issues that arose, where professionals wanted further guidance, was *confidentiality*.

1.1 Introduction

1.1 About this guidance

This paper aims to define confidentiality in the arena of parental alcohol misuse, to research and highlight examples of good practice. There are case studies that illustrate the points made.

1.2 Who it is for

The guidance is primarily aimed at:

- Alcohol service managers and staff
- Parenting support and education managers and staff
- Health and social care managers and staff

1.3 Confidentiality and information sharing

There is a difference between confidentiality and information sharing.

In a multi-agency approach, information will be shared between the various agencies under an *information sharing protocol* so that all are aware that a service user is currently engaged with another service. An agreement should be drawn up between the agencies as to the subset of data that will be shared. When a service user first approaches an agency the information sharing and confidentiality policy should be explained and discussed so that it is understood and accepted by the service user. During the initial meeting the agency will need to know of any other agencies that the client is already in contact with and permission should be sought to contact them to keep them informed.

2. Definition of confidentiality

In the Collins English Dictionary *confidentiality* is defined as 'Spoken, written or given in trust, confidence, secret, private; entrust with another's confidence or secret.'

Traditionally alcohol treatment

professionals have treated their client solely for their alcohol problem and have not necessarily been involved with issues around the client's ability to parent. In light of government legislation, all professionals who come into contact with families have a duty to 'safeguard

children, promote their well-being and work together through partnership arrangements' and 'help secure a consistent response to children and families' needs' (DfES, 2003a and b). This can create tension with the confidential nature of information gathered by a professional and the way they use and share this information with other professionals and agencies.

In the context of parental alcohol misuse, confidentiality issues can sometimes

arise when handling information about the parent's misuse of alcohol in relation to the safety of their children. This may then become a child protection issue, in which case confidentiality may have to be broken for the safety of the child. This is discussed later in this briefing.

Where information sharing protocols do not exist between agencies, the client must be made aware if information is to be shared and agree to this.

3. Principles of confidentiality

The general principles of confidentiality are:

- Information should be used only for the purposes for which it is given
- Information about clients should normally be shared only with the consent of that person and then on a need-to-know basis
- Clients should be informed why and with whom information concerning them is shared
- All confidential information should be rigorously safeguarded.

It is good practice for clients to be made aware of the policy in the initial meeting; many agencies get clients to sign a copy of the policy that is then kept on file.

The practitioner's guide that accompanies the *Every Child Matters* policy documents (DfES, 2006) identifies six key points in relation to information sharing:

- Explain openly and honestly at the outset what information will or could be shared, and why, and seek agreement - except where doing so puts the child or others at risk of significant harm
- The child's safety and welfare must be the overriding consideration when making decisions on whether to share information about them
- Respect the wishes of children or families who do not consent to share confidential information - unless in your judgement there is sufficient need to override that lack of consent
- Seek advice when in doubt
- Ensure information is accurate, up-to-date, necessary for the purpose for which you are sharing it, shared only with those who need to see it, and shared securely
- Always record the reason for your decision - whether it is to share or not.



When somebody seeks help about their problems from an agency they are encouraged to talk about their situations and their personal feelings. In talking to another person, clients sometimes feel that the information they disclose might be used against them in some way, thus limiting the amount that is said. If the agency has an agreed policy on confidentiality and information sharing then this will encourage clients to make full use of treatment thus assuring their development and the protection of their children. Unrealistic offers of confidentiality to a client, when the likely outcome is that information gathered will be shared with others, should not be given.

Consent about confidentiality should be sought, preferably in writing, but clear and unambiguous verbal consent would suffice.

In some cases the sort of information shared with other agencies will be very basic; name, date of birth and the existence of a care plan; would suffice, however where greater partnership work is required, then an information sharing protocol is a useful tool. The content of the care plan and the context of the problem can then be shared, although the content of individual counselling sessions is usually not included.

4. Confidentiality and health standards

Confidentiality is the central trust between a service user and a service provider, enabling an open and honest relationship between the client and the professional. The quality of the use of information is important to the client and in the health sector concerns were raised by the Caldicott Committee report (1997). Treatment services are expected to adhere to the QuADS standards (Alcohol Concern and SCODA, 1999). It would appear that both sets of standards are applicable. However, information sharing is also central to providing a service user with a seamless integrated service involving other services, to best meet their needs and to reduce the risk of harm to self and others. Information

needs to be shared between agencies about service users who are in contact with multiple agencies and those whose care is transferred from one agency to another. A national framework for the commissioning of treatment for alcohol misusers in England is set out in Models of care for alcohol misusers (2006). It outlines the importance of information sharing to achieve seamless provision of care for the service user, providing an integrated care pathway across providers. Services must find a balance between the service user's right to confidentiality and the importance of information sharing. Commissioners should support services to develop protocols to achieve this balance.

5. Duty of confidentiality and the law

A duty of confidentiality arises when an explicit statement on confidentiality does not exist; this applies to information that is not in the public domain. It may be established in situations where confidential information is passed, in confidence, to the confidant (the receiver of the information); where the information is sensitive, for example medical details; and when it has been supplied in circumstances in which the confidant might reasonably suppose it to be confidential.

No service can offer absolute confidentiality. All service users must understand when information will be kept in confidence, when it will be shared with other services involved in their care and in what circumstances confidentiality will be breached. A clear confidentiality policy, which is understood by both staff and service users, should be in place. The policy should be presented and clearly explained to the service user, both verbally and in written form, before assessment begins. The policy should be explained on the service user's first visit to the service and the service user's understanding regularly reviewed. Service users should be explicitly advised of their rights with regard to confidentiality,

including their right to access the information that is held on them.

Without an information sharing protocol and confidentiality agreement there could be potential problems. English common law recognises the concept of a confidential relationship and the duty of confidence. The Data Protection Act 1998 has restrictions on storing personal data in all formats, written and electronic. The Human Rights Act 1998 emphasises respect for private life and strengthens the hand of those advocating increased privacy for the individual. There is a statutory obligation to provide information in specific circumstances:

- Under the Children Act 1989 and 2004 the interest of the child is always the paramount consideration
- To prevent or detect a crime - Crime and Disorder Act 1998
- Assisting police investigations into tracing the proceeds of a suspected drug trafficking offence - Drug Trafficking Act 1986 and Criminal Justice Act 1993
- In the prevention of terrorism.

Where it is legitimate to disclose information it is still limited to those who have a duty to act on that information.



6. Confidentiality policy content

Most confidentiality policies cover the following points:

- Introductory statement on the policy

Examples:

- This agency recognises that clients who use the service have the right to expect information gathered to be held in confidence by this agency
- Information received from a client by this agency will be treated as confidential within the agency.

- The methods and procedures for gathering information

Example:

- The Common Assessment Framework will be used to gather initial information from a client that will be stored as case notes. Subsequent information revealed by the client will be stored in the same way.

- A statement on the positive aspects of sharing information

Example:

- Information sharing will occur under an agreed protocol and this will aid support for the family from different agencies.

- A statement on the limits to the confidentiality

Examples:

- The exception to the requirement to maintain confidentiality is twofold: when there is concern that a third party is at risk (particularly a child) or the client themselves is at risk
- If instructed by a court to reveal information
- Information gathered may need to be shared if there is an issue of child protection or a serious crime
- Clients should be told about any exceptions as part of their initial assessment where guidelines on confidentiality should be explained.

- Policy for sharing information with other organisations

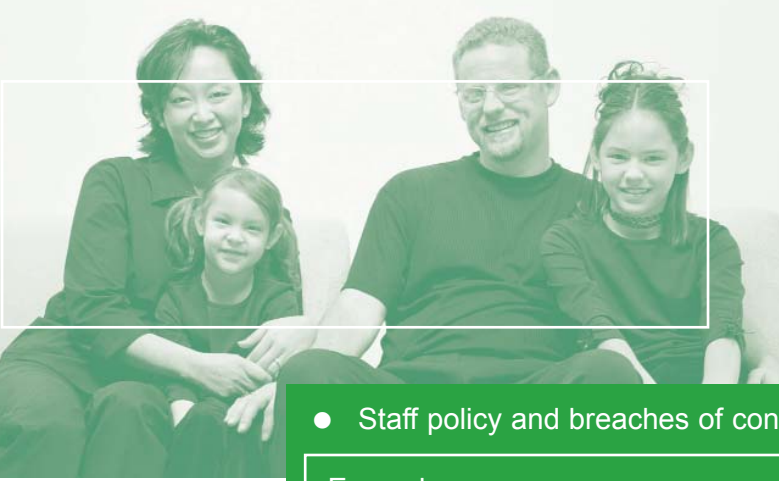
Examples:

- *Where an information sharing protocol exists:* clients will agree to the type of information shared (usually the care plan and details of attendance) with key partners, i.e. social services, GP, community alcohol team, probation team, etc.
- *Where information sharing protocols do not exist:* consent from a client will always be sought before exchanging information with another agency and the client should be aware of the extent of the information that will be shared. Unless consent is obtained no information will be shared with a third party unless it is a result of an exception to this policy
- If another organisation requests information about a client it is the duty of this agency to discuss the consequences of this disclosure and to then seek consent from the client
- A multi-agency approach is not inconsistent with the principles of confidentiality. Cooperation with other agencies to share information does not compromise confidentiality when agreements exist and are known to the client.

- Recording and storage of information

Examples:

- The extent of information kept in the client's file will be discussed with the client initially
- Storage both electronically and physically will be held in private and secure storage
- Information gathered should be written up in the clients' files; notes and rough jottings should be shredded daily
- Information stored in open files should contain as little information as possible that identifies the client (codes and numbering systems used extensively)
- Wherever possible the extent of a client's details are minimised to one set of papers in a client's file.



- Staff policy and breaches of confidentiality

Examples:

- Information about clients is confidential to this agency and will be shared with workers on a 'need to know' basis. Discussion of clients with colleagues will always be purposeful and sensitive
- If it appears that confidentiality will need to be breached then every effort should be made to help the client make the disclosure. If the client refuses to take action then the decision to breach the confidentiality will be taken by the organisation and not the individual worker. A record of the notification to the client as well as the nature of the breach should be on file
- The organisation has a staff disciplinary policy that covers the actions of staff not following the confidentiality policy
- A complaints procedure exists and will be given to clients and explained to them; should a complaint be made it will not affect the support that is offered.

Many agencies require staff to sign a copy of the confidentiality policy as an undertaking to adhere to the policy.

7. Developing, implementing and practice

For any policy to be effective it must be developed in consultation with the various stakeholders so that all can take 'ownership' of the policy. Within the organisation the management, counsellors, administrative staff, volunteers and the executive body will help to develop the policies and procedures. From outside the agency, the service users and other agencies that work closely with the organisation will be able to help form the policy.

Information sharing protocols can be agreed at management level by organisations that are likely to frequently need to share information on mutual

clients. The protocol should state explicitly which information will be shared and by whom. The protocol should be reviewed regularly and staff training must accompany it.

Once all confidentiality policy and procedures are formulated then all staff will need training to make the policy effective. Training should cover the basic principles of confidentiality and how they will operate in a practical sense in the organisation. It is important that clerical and domestic staff are included in this training as they may hear telephone conversations, see names on files, etc.

Induction for all new staff should include information and training about the policy.

The policy should be reviewed on a regular basis (most examples quote 'yearly review') and consultation with the staff on areas of difficulty in implementing the policy, as well as service users' feedback should be sought. Documentation should be audited or quality checked to ensure clients' records conform to the policy. A senior manager should review all files where confidentiality has been broken as part of an annual review to inform any change in policy.

There are a wide variety of reasons why a client may be reluctant to use a service and confidentiality is given as the main reason why potential clients feel unsure of contacting agencies. In particular, where family and alcohol issues are present the three prevailing reasons are:

- Children being taken into care
- Social stigma
- Fear of domestic abuse

Particularly women who misuse alcohol may feel unsure of contacting an agency for fear of being labelled an 'alcoholic' or problem drinker. They may also fear that social services will

become involved and that their children may be taken away. Even if the original assessment leaves the child with the parent there often remains a constant fear of closer scrutiny. The social stigma of attending support or counselling sessions for their problem can also lead to rejection of support.

Other groups may well be reluctant to use the service because of their specific situation:

- Ethnic minorities - particularly if alcohol is not accepted within their culture
- People that live with HIV/AIDs - given the potential for stigma and discrimination, a particularly high standard of confidentiality is appropriate. In this context a 'need to know' principle must be observed with particular attention
- Clients on probation, parole or attending as part of a court order - confidentiality is of particular importance and the extent of the confidentiality that can be assured to the client will need to be in place before the case is accepted
- Clients referred through other agencies (usually health services or social services) - the extent of confidentiality will need to be agreed between the services concerned.



8. Breaking confidentiality

of confidentiality mentioned in Section 5 when it is lawful to break confidence, there are situations that might arise where confidential information may need to be shared; for example in an emergency where there is a risk to the client or others.

Decisions to break confidentiality should not be made lightly and should be in

consultation with a line manager. Consent should be sought from the service user if possible and every effort made for them to contact the relevant authority themselves.

Clear criteria for breach of confidentiality should be given as well as the necessary procedures for such a breach.

Example of the content of policies for breaches of confidentiality:

- Specific circumstances warranting a breach
- Who will be consulted when disclosure is being considered
- The extent of the disclosure
- The extent to which the client will be involved in making the decision
- In all circumstances clients should be informed that a breach would occur.

The issue that concerns most alcohol professionals is the requirement to work in a multi-agency environment where each organisation has different policies on confidentiality. Alcohol Concern's guidance on Multi-agency working for professionals working with problem drinking parents (2006) considers the

wider issues of such partnerships. When working in this environment the organisations will need to align their policies on confidentiality and staff can then consider that the sharing of information is similar to information sharing within their own agency.

9. Conclusion

Agreed policies and procedures on confidentiality and information sharing are an essential part of the practices within the alcohol field. The policy defines the limits and boundaries of confidentiality and sets out procedures for sharing information with other agencies. For the policies and

procedures to be workable and effective there needs to be a number of things in place:

- A shared understanding of the policies and procedures
- A regular review of the policy
- Training and induction for the staff of an agency to use the policy

- Service users to be involved in preparing the policy and consulted about its effectiveness
- Service users to have the policy explained to them initially and the limits and boundaries discussed
- All agencies working with families should work towards agreeing information sharing protocols.

10. Case studies

10.1 Case study: Breach of confidentiality

I am employed by a substance misuse service in the north of England, and work for the family part of the service. Part of what we offer is support to substance misusing parents, to reduce the impact of substance misuse on family life and child welfare.

Susan and Joe were referred by their social worker. They had 3 daughters aged 14, 9 and 18 months. The children were registered on the child protection register under the category of neglect, largely due to Susan and Joe's excessive alcohol use and domestic violence. At the beginning of my work with Susan and Joe, I went through our confidentiality policy with them, namely that we would maintain confidentiality unless we have concerns about potential or actual harm to them, any children or young people or unless they make us aware of crimes that have not already been reported to the police. I explained the policy verbally; in particular reference to social services, then gave them a written copy to sign, which was kept, on file.

Some months later, during a home visit, Joe again queried if the sessions were confidential; I again explained that if I had concerns I would have to pass them on. Joe went on to disclose that Susan had been shoplifting from the local shop, to the tune of several hundred pounds. She had also taken their 14-year-old daughter with her to help on more than one occasion, during school time. At the end of the session, I reminded Joe that I would have to pass the information on to the police and social services, as not only were undisclosed offences involved, but also their daughter was put at risk. Joe stated he did not want me to pass it on, said he'd only wanted to get it off his chest, and said he would retract his information and no longer engage with me. I said I thought the fact he had chosen to discuss it showed how concerned he was about Susan and the situation and did not want it to continue.

Though I knew the information had to be passed on, I was concerned that it would end my relationship with the family, and increase the chances of the children being taken into care. As it turned out,



Susan was arrested for the offence the following day due to CCTV evidence, by which time I had discussed the case with my line manager and we had agreed to pass the information onto social services.

I telephoned the couple shortly afterwards; Joe had played down his disclosure of the offences to Susan, who also denied the extent of her offending. Joe also insisted that I had breached confidentiality. Susan, however, told me over the phone, that she told Joe I had not breached confidentiality, as she remembered me asking them to sign the policy at the start of our work together. I was relieved that Susan remembered that I had set this out at the start and it reassured me that I had been clear about the boundaries to confidentiality.

10.2 Case study: Information sharing between teams

CAN is a voluntary drug and alcohol agency in Northants and Bedfordshire whose remit is to work with the reduction of harm to individuals, families and the community. It offers a range of services including training, a homelessness team, drug and alcohol counsellors, drug counsellors working with parents, children's workers, complex needs workers and criminal justice workers.

Ann and John presented at CAN wanting

to address their pattern of binge drinking. They were allocated their own counsellors and a children's worker saw their 11-year-old twins. Their 16-year-old son was offered support from a young person's worker, which he declined.

CAN's confidentiality policy permits discussion between CAN staff, and clients are made aware of this from the outset. Maintaining Ann and John's confidentiality became an issue when the children's worker reported concerns for the twins' safety when their parents drank. She raised this issue with the area manager who advised that she discuss her concerns with the parents' counsellors. This alerted the counsellors to possible risk factors and enabled them to address the impact of the parents' drinking on their children.

The children's worker can only offer support to children if the parents remain engaged with CAN and a further confidentiality issue arose when the parents stopped attending. The children's worker discussed how to address this with the parents' counsellors and it was agreed to write separately to each parent reminding them that the work with the children would end if the parents were not attending. Her letters led to a review and the parents re-engaging, which enabled the work with the children to continue.

11. References

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The Parenting and Alcohol Project aims to protect and improve the quality of life and opportunities of children parented by someone who misuses alcohol. It aims to achieve this by:

- developing the capacity of alcohol treatment services to offer parenting support to their clients who are parents
- developing the capacity of parenting professionals to work effectively with parents who have alcohol-related problems

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Alcohol Concern Is

- The national agency on alcohol misuse
- Working to reduce the level of alcohol misuse, and to develop the range and quality of helping services available to problem drinkers and their families
- England's primary source of information and comment on a wide range of alcohol related matters

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