

CULLOMPTON TOWN COUNCIL



CHILD PROTECTION AND SAFEGUARDING POLICY

Adopted October 2014

Amended and reviewed March 2015

CHILD PROTECTION POLICY STATEMENT ADOPTED (October 2014)

Cullompton Town Council is fully committed to safeguarding the welfare of all children and young people. It recognises its responsibility to take all reasonable steps to promote safe practice and to protect children from harm, abuse and exploitation.

Paid staff and volunteers will endeavour to work together to provide a safe and welcoming environment to encourage the development of an ethos which embraces difference and diversity and respects the rights of children, young people, and adults.

CULLOMPTON TOWN COUNCIL WILL:

- ensure that all workers understand their legal and moral obligations to protect children and young people from harm, abuse and exploitation;
- develop best practice in relation to the recruitment of all workers including DBS checks, and rechecks every three years;
- ensure that all workers understand their responsibility to work to the standards and procedures detailed in the organisation's Code of Conduct, Confidentiality guidelines for youth workers, Code of Good Practice and the Child Protection Procedures;
- ensure that all workers understand their obligations to report care or protection concerns about a child/young person, or a worker's conduct towards a child/young person, to the organisation's designated person for child protection;
- ensure that all procedures relating to the conduct of workers are implemented in a consistent and equitable manner;
- ensure that the designated person is appropriately trained and understands his/her responsibility to refer any child protection concerns to the statutory child protection agencies (i.e. Police, MASH and/or Social Work);
- provide opportunities for all workers to develop their skills and knowledge particularly in relation to the care and protection of children and young people annually;

- ensure that children and young people are enabled to express their ideas and views on a wide range of issues and will have access to the organisation's Complaints Procedure;
- ensure that parents/carers are encouraged to be involved in the work of the organisation and, when requested, have access to all guidelines and procedures;
- Endeavour to keep up-to-date with national developments relating to the care and protection of children and young people.

USEFUL LINKS AND INFORMATION:

<http://www.crbs.org.uk/pocsa/toolKit/documents/Appendix%209%20Child%20Protection%20Policy%20Statement.doc>

MASH – Multi Agency Safeguarding Hub.

All enquiries regarding Child Protection Concerns will be made to the MASH:

Tel No: 0345 155 1071

E mail: mashsecure@devon.gcsx.gov.uk

FAX No: 01392 448 951

Enquiry forms are available from:

www.devon.gov.uk/mash-enquiryform.doc

If you are unsure of your enquiry and you wish to have a consultation with a qualified Social Worker the numbers to phone are: 01392 388361 / 362 / 363

Out of hours: 5pm -9am and at weekends and public holidays, please contact:

Emergency Duty Service 0845 6000 388 (low-rate call)

Police Central Referral Unit: 0845 605 116

Devon Safeguarding Children Board www.dscb.info/

South West Child Protection Procedures www.swcpp.org.uk

Devon Learning and Development Partnership www.devonldp.org

BECTA www.becta.org.uk

Child Exploitation and Online Protection Agency www.ceop.org.uk

www.thinkuknow.co.uk

DSCB Office: Christina Ashforth 01392 386067

For further guidance please see HM Government – What to do if you're worried that a child is being abused. Summary.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281231/DFES-04319-2006-ChildAbuse_Summary.pdf

CONFIDENTIALITY GUIDELINES FOR YOUTH WORKERS

1.0 INTRODUCTION

- 1.1. Devon has over 68,000 young people aged between 12 – 19 (*Registrar Generals mid year estimate 2000*) the priority age range for youth work in Devon. The basis of our work is the formation of positive relationships between workers and young people. Through such relationships workers are in a unique position to enable young people to gain the skills, knowledge and attitudes needed to identify and act upon issues that affect their lives.**

Youth work also creates safe spaces for individuals or groups of young people who may be experiencing discrimination or isolation from the rest of society.

- 1.2 A wide range of advice and support is available to young people to help them to grow up in today's society. For many young people, youth work may provide their first experience of being listened to and encouraged to communicate. They can be challenged in their views and attitudes within a supportive and caring environment.
- 1.3 However, many young people feel unable to trust adults and some feel disenfranchised. If youth work is to be effective, young people must have confidence in those they find themselves able to talk to. A clear framework of confidentiality supports this.

2.0 PURPOSE OF THE GUIDELINES

- 2.1 As a youth worker you need to know your legal position and the bounds of confidentiality that govern your work; you also need to know that these bounds are agreed by those who manage your work.
- 2.2 The guidelines on confidentiality and the accompanying model policy have been produced to support all those with direct responsibility for the delivery or management of youth work in Devon.
- 2.3 The guidelines and policy are intended:
- (i) to support and develop young people's trust in youth workers;
 - (ii) To establish the legal bounds within which youth workers can relate to young people.

3.0 WHAT DO WE MEAN BY CONFIDENTIALITY?

3.1 A dictionary definition will give you:

“to be kept secret; entrusted with secrets; marked by intimacy or willingness to confide”.

3.2 ‘*Willingness to confide*’ is an interesting statement and very pertinent in our work with young people. Youth workers’ relationships with young people are founded upon trust. Young people very often discuss their own problems and pass on information about others without questioning whether what they say will go any further. When a young person feels able to talk to a youth worker, he or she may well assume that the discussion, particularly if it is about personal matters, **will** be treated as confidential. Good relationships between workers and young people can depend to a very large extent upon the trust young people have that confidentiality will be maintained; there is a clear *willingness to confide*.

3.3 This informal understanding is the basis of youth work, but needs to be seen in a straightforward policy framework, understood by both youth workers and the young people they are supporting.

4.0 WHAT DOES THE LAW SAY?

4.1 Although there is no statutory provision, English civil law recognises the concept of a confidential relationship and therefore does provide remedies for the disclosure and/or misuse of information received in the context of that relationship.

4.2 Usually this is thought of in terms of commercial relationships involving ‘know how’ such as copyright and patents. However the same principles apply to confidential relationships involving personal information.

4.3 In considering whether or not a confidential relationship exists the Law Commission stated:

“An obligation of confidence will arise when the circumstances of the relationship import it, which is a matter to be determined by the court in each case”.

4.4 The most obvious relationships are between doctor and patient or lawyer and client but it has been ruled that even the normal confidences and trust between husband and wife should be subject to an obligation of confidence. Such communications are therefore by no means limited to the business or professional world.

4.5 There can be little doubt that an ‘advisory’ or ‘counselling’ relationship will create an obligation of confidentiality.

5.0 WHAT RIGHTS DO YOUNG PEOPLE HAVE TO CONFIDENTIALITY?

- 5.1 From Section 4 you can see that there is a *general principle* which provides a legal right to confidentiality. The relevant questions are whether these general principles extend to young people; and whether or not there is a duty to disclose confidential information to parents, schools, social services or the police.
- 5.2 The answer emerged from the Gillick ruling in 1985 which concerned the provision by doctors of contraceptive advice and treatment of young women. It has also been decided that a child has rights recognised by law independent of his or her parents which are not determined by any specific age limit:
“..parental right yields to the child’s right to make his own decisions when he reaches a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision”.
(Lord Scarman)
- 5.3 A youth worker who has assessed a young person as having *“sufficient understanding and intelligence”* to appreciate the nature and implications of the issue about which he or she seeks help should be able to assure the young person of confidentiality, (see Section 6, however, for overriding statutory duties).
- 5.4 You will be concerned as to whether parents should be informed. The Gillick ruling is that children and young people should if possible be **persuaded** to allow their parents to be consulted; but that ultimately, where they are of *sufficient understanding*, there is no obligation to do so. Youth workers should therefore try to persuade young people to allow parents to be consulted; this would be inappropriate where a young person specifically refuses or in the case of child abuse.
- 5.5 You must also satisfy yourself that the young person understands the implications of acting upon any advice given.
- 5.6 Lord Fraser added a requirement that before advice or treatment is given a worker should be confident that it is “in the best interests of the child”. The best interest of the child as paramount is also central to the Children Act 1989.
- 5.7 Advice and counselling can be given to young people ‘lacking maturity’ in exceptional circumstances. Such circumstances would include child abuse cases when the parent is the alleged perpetrator or when the young person is in immediate danger such as threatening suicide. Disclosure to other statutory agencies is more likely to be the issue in these circumstances.
- 5.8 In cases of doubt you should seek legal advice or contact MASH or refer to the County Guidelines on Child Protection. The youth work office can offer support and refer you to relevant advice.

6.0 ARE THERE TIMES WHEN I CAN BREAK CONFIDENTIALITY?

- 6.1 Confidentiality should be reviewed when a young person is at risk of ‘significant harm’. The Children Act 1989 Section 47 states that a local authority must investigate where there is reasonable cause to suspect that a young person is likely to suffer

'significant harm' and that enquiries should be made to safeguard and promote the best interest of the young person.

6.2 There is no hard and fast rule that constitutes 'significant harm'. Each case will need to be considered on its own merits. It is recommended that this area is discussed in depth by staff, managers and young people to enable individual staff to make consistent and informed decisions.

6.3 **Am I obliged to disclose to parents? No**

Confidentiality does not have to be broken to parents as long as procedures in 5.4 to 5.6 are followed.

Parents cannot insist on disclosure unless they take wardship proceedings seeking an order for disclosure. This is usually coupled with an injunction to stop any advice and/or counselling. The courts will then decide whether disclosure is in the best interests of the child.

6.4 **Am I obliged to disclose to Social Services? No**

There is no statutory duty to pass on confidential information to Social Services. However, a qualified duty is imposed on certain authorities, the education authority included, to assist Social Services in their enquiries where called upon to do so but not 'where doing so would be unreasonable in all the circumstances of the case'.

This now becomes quite complicated as *unreasonable* is not defined by legislation; it is a matter for the local Area Child Protection Committee to determine. The decision for you to be asked to break confidentiality would depend upon their interpretation of *unreasonableness*. The Department of Education and Employment circular 4/88, which addresses child protection procedures within the education service, supports the view that a breach of a confidential relationship with a young person of sufficient understanding, without the young person's consent, could constitute unreasonableness. Therefore the breaking of a confidence should not be forced upon you.

Child Protection issues must be carefully considered in cases of child abuse. The young person with whom you are directly working may have brothers or sisters who could be at risk and their safety and well-being must be considered as their needs are also paramount. Young people will need to be informed that within this context their right to confidentiality could be over ruled.

6.5 **Am I obliged to disclose to the Police? No**

Except for specific offences, there is no general duty in criminal law to disclose information to the police that criminal offences have been or are likely to be committed.

Under the 1984 Police and Criminal Evidence Act the police are empowered to search for and to seize relevant evidence to assist in the detection of crime. However, certain

material is excluded which includes personal records of individuals relating to counselling or assistance given.

If you require advice you may contact your Divisional Police Youth Affairs Officer. Youth work engages closely with the police on preventative measures and workers will wish to be sensitive to the benefits of all interagency co-operation at both a strategic and practitioner level.

7.0 SUPPORT AND TRAINING

- 7.1 You will no doubt be concerned to receive support, supervision and training in these issues and should discuss this with your line manager.

The training you receive in the assessment of young people will assist you in defining “sufficient understanding and intelligence”. (5.3)

- 7.2 Particular issues relating to the non-defined terms such as ‘suspicion’ in potential child abuse cases, and their reporting, need to be discussed with colleagues and managers and procedural steps agreed based upon these guidelines and the Child Protection Procedures.
- 7.3 All confidentiality issues need to be discussed and agreed as part of a team, and a policy established to ensure staff and managers are clear.

Definition of terms within the policy

1. **CONTACT**

A contact is a young person with whom the youth worker or the team is involved.

2. **WORKER**

A worker is a member of the youth work team with whom confidences can be shared.

2. **TEAM**

The team may consist of volunteers, part-time staff and the full-time Tutor with a responsibility for the delivery and support of youth work. Not all confidential information needs to be shared with all the team on every occasion. Information should only be shared if relevant to each other's work.

The team should however be defined (large centres may have several) as it is the largest context in which the confidence will be shared.

4. **REPRESENTATIVE**

A representative is a person holding written proof that the contact he or she claims to represent has given explicit permission allowing access to that contact's record. Such proof must be seen by the worker concerned before any record can be disclosed, and will consist of:

- (i) proof of the representative's identity;
- (ii) proof of the contact's identify in the form of a verifiable signature;
- (iii) the contact's signed and explicit permission to disclose his/her record to that representative.

5. **RECORD**

A record means any form of information or material relating to a contact which is preserved in writing, on tape, photograph or photocopy. A distinction is drawn between records which refer to specific contacts and those which cannot be used to identify individuals.

6. **DISCLOSURE**

This means breaking confidentiality to another individual, or organisation or agency.

CONFIDENTIALITY DECLARATION

Statement of Intent:

All members of the *CULLOMPTON TOWN COUNCIL* Youth Work Team
Hereby affirm their commitment to confidentiality in all their work with young people.
All members have willingly signed this policy document in order to reinforce this
commitment and will honour its content and procedures throughout their youth work
practice.

Affirmation

The *CULLOMPTON TOWN COUNCIL* Youth Work Team affirm that they have read and
understood The Guidelines for Youth Workers.

The Team acknowledges that a willingness to confide on the part of the young person in an
important step in establishing a productive relationship, and that this is often based on the young
person's belief that information is imparted in confidence.

Undertakings

Each member of the team undertakes:

- (i) to keep proper records as expected in good youth work practice; but also to ensure that files
or other documents are stored in a locked cabinet and not left on public display;
- (ii) to make it plain to young people that confidence is maintained within a team, and not on an
individual worker basis;
- (iii) to seek from and offer to members of the team such support as may be necessary;
- (iv) to discuss with the team at the earliest opportunity assessments of "sufficient understand and
intelligence";
- (v) to try to persuade a contact to allow his or her parents to be consulted;
- (vi) to discuss with the team whether the best interests of the child are being upheld
in any advice or support given;
- (vii) to discuss with the team the advisability of disclosure to other statutory agencies of such
cases as child abuse and to follow the guidelines carefully, seeking advice if necessary;
- (viii) to break confidence if there is:**
 - (a) a serious threat of harm to the contact or others;**
 - (b) consent from the contact to disclose;**
 - (c) a legal requirement such as a court order.**

Each member of the team understands that if the three points under (viii) are not
applicable and a confidence is broken the worker is subject to suspicion of gross
misconduct and liable to the Unit's disciplinary procedures.

