

# **LINKS: THE CHESTERFIELD & NORTH EAST DERBYSHIRE COUNCIL FOR VOLUNTARY SERVICE & ACTION LIMITED**

## **CONFIDENTIALITY POLICY**

### **1. General principles**

1.1 Links recognises that its workers (employees, freelancers, volunteers, and trustees) gain information about individuals and organisations during the course of their work. In most cases such information will not be confidential. Workers will be expected to exercise their own judgement in identifying confidential information and being clear with individuals and groups how this confidentiality will be maintained.

1.2. Workers will not disclose to anyone other than Links colleagues and particularly their line manager any information considered sensitive, personal, financial or private without the consent of the individual or the organisation concerned unless there is an urgent need to act in accordance with 1.4.

1.3 Links has a duty to disclose certain information to the appropriate authorities under the provisions of Links Safeguarding Children and Vulnerable Adults Policies. Guidelines are given in Appendix 1 on reporting other circumstances where illegal acts/serious incidents have occurred or may occur.

1.4 Workers should be wary of discussing confidential information in situations where the information could be overheard by others.

### **2. Why information is held**

2.1 Both hard copy and electronic information about voluntary and community organisations are held by Links. This is kept to record the history of Links' involvement with the group, to inform future work and for monitoring purposes.

2.2 Links keeps a database of groups. Groups are asked if they wish to be on the "public" list i.e. they agree that information about their contact details can be shared publicly. Only groups who have agreed to be on the public list will be included when database information is shared with other organisations or the public.

2.3 Links also keeps personnel information and details of trustee/company directors/company members both organisational and individual in compliance with the relevant rules and regulations.

### **3. Storing information**

3.1 Personnel files are stored in a locked drawer accessible only to the Chief Executive and Administrator and, in certain circumstances, to the Board of Trustees. The information in the file will include application form including home address, job description, salary details, references, criminal record checks, signed contract of employment, sickness records, disciplinary records and correspondence between the parties. Employees are entitled to view their own file but not to take the file away from the premises. Information will not be disclosed to a third party unless there is a legal duty to do so or for the purposes of a reference.

3.2 Where information on groups and organisations is not considered confidential, it will be kept in the unlocked filing cabinet with access to all colleagues. A representative of a group will be given access to the group's file on request.

3.3 Where information is considered confidential, it will only be available to workers directly involved and the Chief Executive. Such information must be clearly labelled "confidential" and kept in a locked drawer/filing cabinet. Particular care should be taken to password confidential information stored electronically. The password should be known only to the worker and the Chief Executive.

3.4 When working on confidential documents, workers must ensure that they are not seen by people passing. This applies to information on computer screens and on paper.

3.5 Personnel files are kept for 7 years after the employee leaves. Links trustee minutes and board information is kept indefinitely. Links insurance certificates will be kept for 40 years. The accident books will be kept for 3 years after the last entry. Contracts and funding agreements will be kept for 6 years. Unless funding programmes specify a longer period or there is the strong likelihood of future work, all other information on groups and organisations, employee time sheets and job applications from unsuccessful applicants will be kept for one year.

**ADOPTED BY BOARD 14<sup>th</sup> SEPTEMBER 2010**

Review date 2015

**GUIDELINES ON REPORTING GROUPS TO THE AUTHORITIES**

The aim of these guidelines is to clarify the circumstances in which Links might blow the whistle on a group i.e. report them to the authorities.

**Background**

Links main aim is to support and advise voluntary and community groups. Topics include legal structures, charity rules, equality and employment law, financial management, funding and contracts. This occasionally brings us into contact with groups who are in breach of various rules and regulations and may even be breaking the law. Usually this is because the group does not understand the rules or laws and Links provides a valuable source of information, advice and support in remedying the situation.

Links does not have a policing role and can only give advice which the group may choose to follow - or not. Sometimes the group may decide to go on breaking the rules usually because it is a minor issue but on rare occasions because there is a fraudulent or reckless intent. It can be very difficult for Links to identify the intention behind the conduct of a group and we can only warn of consequences.

The advice we give to groups is confidential to that group and the staff of Links would not normally report any wrong doing even to its own Board which is mainly made up of numbers of representatives of some of the very groups Links is advising. The staff would discuss problem areas in supervision with their line manager which, for advice giving staff, is the paid Chief Executive.

**Risk to Links of not reporting**

In the most serious cases, failure to report a crime may create a situation where Links is considered to be an accessory. An example might be where Links drafts a bid on behalf of a group, negotiates with funders, helps with claims and reporting activity but then discovers that the group is misusing the funds for purposes Links had specifically stated were excluded. Failure to report this might lead the authorities to believe that Links is complicit in the fraud.

Even in less serious cases, there is a risk to Links of damaging the good relationships we have with funders. We are often asked by funders to comment on a group, provide written appraisals of the group's application and we

frequently provide references for groups, vouching for their trustworthiness and credibility. If wrongdoing comes to the attention of such funders and Links has remained silent, it may bring Links into disrepute.

### **Independent examinations**

There is one situation where Links has no choice but to report the group and this is where Links carries out an independent examination of the accounts of a group. Examinations have been seen as an earnings opportunity for Links but can conflict with the aims of supporting a group to remedy the situation. We have therefore taken the operational decision not to carry out independent examinations (other than for two long-standing customers) but to refer groups to a community accountancy service.

### **Charities**

The issues relating to charities are clearer because the Charity Commission has revised its guidance to trustees on reporting serious incidents to it. These are listed as:

- connections to proscribed (banned) organisations;
- charity links to or support for terrorism, financial or otherwise;
- misuse of a charity to foster criminal extremism;
- fraud and money laundering;
- abuse of vulnerable beneficiaries;
- not having adequate measures in place to protect vulnerable beneficiaries;
- sham charities, set up for illegal or improper purposes.

The Commission would normally expect trustees to report an incident if

- the incident is also reported to the police or other statutory agencies;
- trustees decide that the incident presents a serious or significant risk to the charity, its beneficiaries, reputation or assets; or
- the internal risk assessment of the incident concludes that the charity should act to avoid a serious or significant risk to the charity, its beneficiaries, reputation or assets.

### **Guidelines for Links to report groups to the authorities**

It should therefore be the practice of Links, in the case of a serious incident, to draw the attention of the charity it is advising to this guidance and to encourage a trustee or trustees of the charity to report the incident to the Commission.

If, in the view of Links Chief Executive, the trustee(s) are wilfully refusing to report the incident then Links should consider reporting the circumstances to the Charity Commission.

The decision to report should always be made by the Chief Executive or, in the case of a prolonged absence of the Chief Executive, by the most senior member of staff. Where appropriate, the Chief Executive may seek the confidential support of the Chair of Links or other Officer of the Board.

Where a group is not a charity, the same definitions of a serious incident should be used and the Chief Executive should consider who the relevant authorities might be. This will depend on the legal status of the group as it may be regulated by another body if it is a company or co-operative. Funders will need to be alerted and the police, of course, may need to be advised. In the final analysis, the local council has scrutiny powers over any activity in its area and could be used as a reporting mechanism.

### **The nature of “serious”**

These guidelines are not intended to be punitive and Links must always try to err on the side of the group in helping it to remedy defects. However, we must also remember the beneficiaries of the group, the proper use of public funds and the good name and reputation of Links. These elements should be used as guiding principles in deciding whether something is “serious”. We should ask ourselves the question, “Would the authorities think Links was helping the group to do wrong rather than right the wrong?”.

The guidelines should be read in conjunction with policies of Links particularly those relating to Equal Opportunities, Health and Safety, Safeguarding Children and Vulnerable Adults. In cases affecting Links own conduct, employees can use the Grievance Procedure and people outside Links can use the Complaints Procedure.