



EGLAC
EAST GREENWICH LEGAL ADVICE CLINIC

Confidentiality Policy

Confidentiality is a fundamental principle of East Greenwich Legal Advice Clinic (EGLAC). This guidance is designed to help volunteers apply the principle in a range of different circumstances. It cannot cover every possible situation and volunteers should contact the Clinic Director if further clarity is required.

The Principle of Confidentiality

EGLAC provides a confidential service to clients. Nothing learned during the course of dealing with a client (including the fact that an enquiry has been made) will be passed to anyone outside the service without the client's express permission (other than in exceptional circumstances). In particular:

- Interviews are held in aural privacy;
- Clients are not required to state the nature of their enquiry in front of others; and
- Referrals are made only with the knowledge and consent of the client. If a client agrees to information being given to a third party, there is no breach of confidentiality.

Protecting Confidentiality

Everyone participating in EGLAC must have an understanding of the Confidentiality Policy and its importance. This includes all volunteers, advisers, management and administrative staff, and anyone else offering services as part of or on behalf of EGLAC.

All volunteers at EGLAC must have a practical understanding of what confidentiality means for the operation of the organisation. This ranges from the most practical day-to-day matters such as ensuring that volunteers and staff do not discuss cases where they can be overheard by other clients or people not connected with the service to considering the impact of the principle on potential new services.

However, some element of discretion has to be used. For instance, if someone has accompanied a client to a face-to-face appointment with EGLAC and then left, it would be permissible for that person to be told that the client is still in the clinic (unless the client has

expressly requested that this should not happen).

Breaching Confidentiality

Although the overriding rule is that information about a client will not be passed on to a third party without the client's permission, there are exceptions where there is evidence that:

- a client or someone else is at risk; or
- disclosure of information is required by law.

A decision to breach confidentiality should always be taken very seriously. Before a breach of confidentiality is sanctioned, a judgment as to whether there is a serious risk of danger to the client or others or to EGLAC as a service provider has to be made. This decision will be based on:

- the balance of probability that such a risk exists;
- the likelihood of the risk materialising; and
- the impact of the risk should it materialise.

A breach of confidentiality will not be sanctioned where there is little prospect of the risk becoming a reality or where there is no evidence that there is a risk. Some situations require an immediate response, e.g. where safety is the overriding consideration.

Duty to Disclose Information

There is a legal duty to disclose some information including:

- child abuse will be reported to Children's Social Services;
- abuse of an adult at risk will be reported to Adult Social Services; and
- drug trafficking, money laundering or acts of terrorism will be disclosed to the police.

In addition, volunteers or staff believing an illegal act has taken place, or that a client is at risk of harming themselves or others, must report this to the Clinic Director who will report it to the appropriate authorities. The client should be informed of this disclosure. A record of the circumstances, the issues and any decision made should be kept centrally.

Volunteers will not disclose to anyone, other than volunteers or staff, any information considered sensitive, personal, financial or private without the knowledge or consent of the client. There may be circumstances where volunteers will want to discuss difficult situations with each other to gain a wider perspective on how to approach a problem. A discussion may take place with names or identifying information remaining confidential.

Data Protection Act

Information about individuals, whether on computer or on paper, falls within the scope of the Data Protection Act and must comply with the data protection principles. These are that personal data must be:

- obtained and processed fairly and lawfully;
- held only for specified purposes;
- adequate, relevant and not excessive;
- accurate and up-to-date;
- not kept longer than necessary;
- processed in accordance with the Act;
- kept secure and protected; and
- not transferred out of Europe.

EGLAC has the following policies regarding data protection:

- Data Protection Policy;
- Client Privacy Policy;
- Retention and Destruction of Records Policy; and
- Use of Personal Devices Policy.

Giving Information to Third Parties

Confidentiality is not breached if the client agrees to information being given to a third party. If a client agrees to their case being referred to another organisation, law firm or chambers s/he should also be asked to confirm that all information given to EGLAC can be passed on to the other organisation, law firm or chambers.

Break-ins and Theft

If confidential records are stolen in a break-in or in any other way, the theft must be reported to the Clinic Director and the police. The report to the police must stress the confidential nature of the records and the importance of them being returned unread if they are found. Client details should not be disclosed to the police. Where case records have not been stolen, but an intruder may have examined them, a report should be made to the Clinic Director.

Contacting Clients

The way(s) in which clients may be contacted should be agreed at the time of the interview and noted on the case record. Care should be taken when contacting clients in case confidentiality is inadvertently breached. Email enquiries should be handled securely.

Case Records

a) Storage of Records

Most information held by EGLAC relates to individuals, voluntary and community organisations, volunteers, trustees or services which support or fund them.

Information is kept to enable volunteers, staff and trustees to understand the history and activities of individuals or organisations in order to deliver the most appropriate services.

General non-confidential information about organisations is kept in computer files with open access to all EGLAC volunteers, staff and trustees.

Personnel information on volunteers will be kept securely by the Clinic Director and will be accessible to the trustees.

Clients' case records and other notes taken in the course of an interview must be kept securely. EGLAC files are electronic but any occasional paper correspondence and other records, such as handwritten notes taken during a meeting, must not be left unattended or kept in view of people from outside EGLAC. When working on confidential documents, volunteers must ensure people passing do not see them. This also applies to information on computer screens.

Information about ethnicity and disability of clients, volunteers, staff and trustees is kept for the purposes of monitoring only.

b) Lost Records

If confidential records are lost, this should be reported to the Clinic Director as soon as possible.

c) Client Access to Records

Clients have the right to see their own case records and letters written or received on their behalf. Copies may be given to clients, but the originals should be retained by EGLAC.

However, where a client has made a complaint or a claim involving liability for wrong advice against EGLAC, any records or correspondence relating to the claim or complaint is confidential to the organisation and should be stored separately to the original case record.

d) Third Party Access

A third party can have access to client records only with the client's express permission, preferably in writing. This permission, and details of which documents were supplied to whom and why, must be kept on the case record. Exceptions include EGLAC's insurers/solicitors.

Whistle Blowing

Where any volunteer or member of staff has concerns about the use of EGLAC funds, s/he may refer to the Clinic Director or any of the trustees.

All volunteers and staff hold the right to inform either the Clinic Director or one of the trustees if they believe that EGLAC is being brought into disrepute by the actions of another volunteer or member of staff.

Unauthorised Breaches

If an unauthorised breach of confidentiality is discovered the Clinic Director should be instructed as to the nature and details of the event.

Most unauthorised breaches are accidental or inadvertent. Examples include letters sent to clients with the wrong address, papers belonging to one client mistakenly given to another and inexperienced staff members revealing client details to third parties. These types of breaches should not be ignored even if there appear to be no immediate consequences for the client or for EGLAC.

The client should be informed of what has happened and given the opportunity to make a formal complaint. The breach should be discussed with relevant members of staff or volunteers and EGLAC's procedures should be checked. A record of the breach and the action taken should be made.

In extreme cases, where confidentiality has been breached wilfully or maliciously, an investigation will be carried out and disciplinary action may be required.

Volunteers or staff who are dissatisfied with the conduct or actions of other volunteers or EGLAC should raise this with the Clinic Director or any of the trustees and not discuss their dissatisfaction outside EGLAC.

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