



## Cumbria SEND Information, Advice and Support Service

Offering impartial information, advice and support to children and young people with special educational needs and or disabilities and their parents & carers.

### Confidentiality Policy

#### Basic Principles

Cumbria SEND IAS Service understands that you (our client) need to know that:

- we respect your right to privacy
- you can speak to us, or write to us, in complete confidence
- no-one outside the service will know that you have contacted us
- we will never communicate with anyone outside our service about your contacts with us, unless you give your express permission
- the only time that we will share information with other agencies without your permission would be if we become aware that someone may be at risk of serious harm or we are legally required to do so by the police or courts – if this should arise we will always tell you

#### 1. Introduction

1.1. This confidentiality policy sets out the way in which Cumbria SEND IAS Service operates with respect to the confidentiality of its service users, taking into consideration current legislation, whilst complying with local government policies and procedures.

#### 2. Confidentiality

2.1 Cumbria SEND IAS Service works with children, young people with special educational needs and or disabilities and their parents or carers by self-referral to the service. In exceptional circumstances, SEND IAS Service staff may agree to contact children, young people or their parents who have been referred to the service by other professionals and where it is evident that the referrer has obtained prior consent to contact details being passed to the SEND IAS Service.

It is recognised that through the implementation of the Early Help Assessments such indirect referrals may become more commonplace.

2.2. The SEND IAS Service upholds the trust and confidence that service users place in the service by maintaining confidentiality about case work. Personal information may be provided to other professionals in order to achieve desired outcomes for service users. However, this will only occur if prior consent has been obtained.

2.3 The SEND IAS Service provides a confidential telephone helpline service for service users. The advertised helpline numbers have voicemail recovery service and can only be retrieved by SEND IAS Service staff.

2.4. The Service will only disclose personal information without consent if required by law, for example, in relation to Child Protection issues. In these circumstances, confidentiality obligations may be over-riden if it is believed that a child is at risk.

2.5 Cumbria SEND IAS Service operates at 'arms length' from the Local Authority, but as a service provided 'in-house' it remains subject to the laws that regulate the use and sharing of personal information by public bodies with respect to data on school pupils.

These laws include:

- 'Administrative law' that regulates the activity of public bodies.
- The Human Rights Act 1998 and the European Convention on Human Rights.
- 'Common law' Duty of Confidence.
- The Data Protection Act 1998.
- Freedom of Information Act 2000.
- European Community law.
- The Children Act 2004 (Section 11 Safeguarding Children)
- The Children & Families Act 2014

2.6. In line with its obligations under the above legislation, Cumbria SEND IAS Service strives to ensure the confidentiality of its service users. Subject to consent, the SEND IAS Service sometimes shares personal information about service users with other agencies, for the purpose of assisting service users in dealing with their circumstances.

2.7. Anonymised statistical data is available, on an annual basis to the Local Authority for Performance Monitoring as means of gauging service activity. No data is provided that would identify families or their children.

### **3. Storage of Case Work**

3.1. The SEND IAS Service provides information, advice and support to help resolve issues, this often results in service users providing the service with information of a personal and/or sensitive nature.

3.2. It is generally accepted that if a child is under 12 years of age, their parent or guardian has a right of access to their personal information under the Data protection Act (1998). If a child has the capacity to make their own request (normally from the age of 12) they will have an independent right of access to their personal information under the Act.

3.3 Requests for personal information about service users should be directed to the manager of the service.

3.4 Electronic case work information is stored on the Service's own secure database. Access to this information is regulated and controlled, and is provided on a need to know basis.

### **4. Consent**

4.1. SEND IAS Service staff endeavour to strike a balance between handling case work confidentially and the need sometimes to share information in order to affect a solution to the circumstances presented.

4.2 Consent will be sought where discussions with third parties is considered necessary to help the service user. Service users may consent to the disclosure, may restrict it to certain professional roles only, or may refuse entirely. Consent, restricted consent or refusal is noted on the case file, as appropriate.

4.3 Occasionally, an enquiry may be so complex that the Service can only assist a service user by discussing the case with other professionals employed within Children's Services or other organisations. If consent is refused, the service user is advised of the limits of the SEND IAS Service's ability to help them and this is recorded on the case file. At all times the views of the service user are respected.

4.4 Service users will be advised that if their case is discussed with other professionals, information is divulged on a need-to-know basis only.

### **5. Data Protection and Freedom of Information**

5.1. Cumbria SEND IAS Service may receive requests for access to case work files from either the Local Authority or external parties. The SEND IAS Service manager will be responsible for handling such requests, and will only disclose personal information in those circumstances

where required or permitted by law. Requests will be handled in accordance with national guidelines for SEND IAS Services as follows:

- a) Service users will be advised of any request made to the SEND IAS Service and their consent will be sought to release any case notes to Local Authority staff. If service users agree, they are asked to sign a consent form (or send a letter) indicating their consent to release documentation held by the service,
  - or
  - b) At the service users' request, the SEND IAS Service will forward all documentation to them or their solicitor, who will then have responsibility for passing the information to the Local Authority.
- 5.2. Requests to the SEND IAS Service for information under the Freedom of Information Act (2000) will be actioned by the manager of the SEND IAS Service, in accordance with the obligations set out under the Act and the Local Authority's Freedom of Information Act Policy.
- 5.3 The SEND IAS Service use a secure CJSM email account to send documentation to SEND Tribunal on behalf of service users we are supporting with the tribunal process.
- 5.4 This policy will be reviewed every two years by the SEND IAS Service Co-ordinators and the service manager to reflect accurately the implementation of new working practices, based on the most recent legislation and national guidance.

**Date policy to be reviewed Oct 21**

