

#5 Confidentiality policy

Oaks Community Church – North East Derbyshire

Policy #	#5
Version	v2.1
Domain	Corporate Governance
Reason for update	Scheduled update
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1. Purpose:

1.1 To define to meaning, scope and aim of this policy:

1.1.1 The Oaks Community Church (hereafter referred to as “The Oaks”) defines confidentiality as:

“The act of keeping information or material entrusted private ”

1.2. This Confidentiality policy pertains to sensitive and/or personal information only, whether in spoken, written or electronic format (including images).

1.3 The Oaks’ leadership teams, Directors, the Pastoral Network and the church as a whole, will seek to provide a private, warm and caring environment for people, who may need to speak about things that are sensitive and/or personal.

2. Need:

2.1. Confidentiality is the foundation of trust for people to share sensitive and/or personal information, and in specific contexts, would be expected by the confider.

2.2. Where a breach of that confidentiality occurs, this damages trust, disrupts relationships and may cause both offence and therapeutic regression.

2.3. Where sensitive and/or personal information circulates, this constitutes gossip, which is further damaging to the confider and ultimately damaging to both those who hear and/or transmit that information, and to the reputation of the Oaks.

Gossip: ***“Casual or unconstrained conversation or reports about other people, typically involving details which are not confirmed as true”***
(OED)

3. Policy Points:

3.1. Duty of Confidentiality:

3.1.1 The Oaks believes that a confidant has a ***‘duty of confidentiality’*** to the confider.

3.1.2. However, confiders do not always define what they consider to be either

sensitive &/or personal information, and confidants do not always remember or feel it appropriate to ask.

- 3.1.3. Therefore, where a duty of confidentiality exists is not always clear. A confidant will need to take a judgment based on:
- The 'Nature' of the information shared.
 - The 'Context' in which the information was shared.
 - The 'Presumption' of the confider's intention (if this cannot, or is considered inappropriate to be established).
- 3.1.4. Nature: Most information shared casually is 'personal'; and 'sensitive' is subjective and contextual itself (e.g. 'sensitive' to whom?). Therefore, confiders should apply a broad consideration and err on the side of confidentiality where there are no good reasons to assume otherwise.
- 3.1.5. Context: Information elicited in a context of exclusivity, especially where deliberately arranged (e.g. advising/'counselling', ministry, mentorship, etc.) should be considered confidential unless otherwise specified by the confider.
- 3.1.6. Presumption: The confidant should ask themselves two questions:
- a) Would I want that information disclosing if it pertained to me?
 - b) Have I given any explicit or implicit indication of confidentiality?
- 3.1.7. A duty of confidentiality would be established where any one or more of the three tests (Nature; Context; Presumption) is invoked.
- 3.2 **The 'Need to Know' principle:**
- 3.2.1. However, confidential information should only be shared within the Oaks on the basis that this information may be shared with other appropriate people within the team structures on a '**need to know**' basis.
- 3.2.2. This exception to the duty of confidentiality is communicated to the church and the policy is accessible in the public domain on the Oaks website (www.oaksc.org.uk).
- 3.2.3. It is good practice for confidants to make this caveat clear to confiders before information is shared.
- 3.2.4. Where information sharing on a 'need to know' basis is not acceptable to the confider, the confidant should not waive the caveat, even if this means that the confider elects not to share information.
- 3.2.5. 'Need to know' should be imperative rather than speculative; i.e. there should be a present, clear and justifiable 'need to know' rather than 'just in case'.
- 3.2.6. It is also good practice for confidants to explain to confiders when a 'need to know' situation exists, and 'what', 'when' and 'to whom' information will be

#5 Confidentiality policy

Oaks Community Church – North East Derbyshire

shared.

3.2.7. Occasionally, confidants will need to debrief with a senior leader, where the information received is emotionally disturbing; or where it is unclear whether a 'need to know' situation really exists; or where counsel is sought on the situation or how to handle similar situations in future.

3.2.8. Where such debriefs occur, they should ideally:

- Be anonymised
- Focus on process rather than content

Where neither is possible, this would also be considered a 'need to know' situation.

3.3. **Breach of confidentiality:**

3.3.1. There are occasions when the 'need to know' principle extends beyond the borders of the Oaks. This is frequently referred to as 'grounds for overriding the duty of confidentiality' or 'breaching confidentiality'.

3.3.2. The usual grounds for overriding the duty of confidentiality are:

- The protection of the confider from harm, whether emotional, physical or spiritual (including Safeguarding responsibilities).
- The protection of an identified third party from harm, whether emotional, physical or spiritual (including Safeguarding responsibilities).
- The protection of the church community from harm, whether emotional, physical or spiritual (including Safeguarding responsibilities).
- The protection of non-identified individuals or society at large from harm, whether emotional, physical or spiritual (including Safeguarding responsibilities).
- On demand from a court of law.

3.3.3. The confidant should **believe** that there are reasonable grounds to override the duty of confidentiality, but he or she is not required to be certain, or provide proof or evidence that the belief is justified. In other words, it is a **judgement** made in that particular context.

3.3.4. Before such a sharing of information takes place, it would be appropriate to discuss the matter anonymously with a leader of the church (q.v. 3.2.7-8 above).

3.3.5. Where confidentiality is to be overridden, the confider will normally be

informed of this, unless the issue involves Safeguarding Children concerns, where the matter will be discussed with ‘thirty-one:eight’, the Oaks’ professional Safeguarding advisor, and their instructions on informing the confider will be followed.

3.3.6. Sharing confidential information outside of the Oaks would be to the appropriate authority only; i.e. medical services, social services, police, etc., as relevant.

3.3.7. Any confidential information will also be shared, on a ‘need to know’ basis across the relevant leadership team where there are grounds to override confidentiality (q.v. 3.3.5. above). The leadership will act as one for the well-being of the church, its members and the wider society without prejudice.

3.4. **Personal data and highly sensitive personal data:**

3.4.1. If any written or image information is kept it must be stored in electronic format on the Oaks Secure Central Server. This would be held on a ‘legitimate interest’ basis (e.g. safeguarding notes) or with express signed consent, in accordance with The Data Protection, Privacy & Electronic Communications (Amendment Etc.) (EU Exit) Regulations 2019 (DPPEC), also abbreviated as the ‘UK GDPR (2019)’.

3.4.2. The confider may access any such information, upon written request as a Subject Access Request (SAR).

3.5. **Complaints:**

3.5.1. Anyone who feels that confidentiality has been wrongfully breached, should write to the Oaks at the address below, giving details of the breach, and this will be investigated. (See Complaints Policy #13 for more details)

3.5.2 The Chair of the Board of Directors,
Oaks Church,
2 & 4 Lea Road,
Dronfield,
Derbyshire,
S18 1SB

References	N/A
To be read in conjunction with	#1 Safeguarding policy #7 Data Protection policy #13 Complaints policy
Specific updates from last version	Minor clarification of wording. Updating of dates and Acts.
Relating policies	N/A

Appendix 1: N/A