

Code of Confidentiality

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What is the Duty of Confidentiality?

A legal and ethical obligation that arises when a Service User shares personal information with a welfare provider in circumstances where it is reasonable to expect that the information will be kept private. This duty applies to all personnel providing welfare support, even if they are not bound by professional codes (e.g. medical or legal) and is grounded in case law and MOD policy.

Service Users (SUs) have a legitimate expectation that their sensitive information will be handled respectfully and only shared when necessary for their welfare or when legally justified.

General Principles

- Confidential information must only be used or disclosed if it directly contributes to the SU's welfare.
- Disclosure should be limited to what is necessary and shared on a need-to-know basis.
- Anonymised data is not considered confidential and may be used more freely.
- SUs should be informed about how their data will be used via Privacy Notices (e.g. Primary Welfare Privacy Notice, AWS Privacy Notice).

Right to Object

Under UK GDPR Article 21, SUs have the right to object to processing of their personal data based on Public Task. Welfare providers must:

- Request that the SU provides specific reasons for their objection, to inform the assessment of whether the public task outweighs their objection.
- Record the objection formally as a Data Subject Rights Request and process it via eCase (speak to your local DPA).
- Stop processing unless there are compelling legitimate grounds or legal claims.
- Inform the SU of the outcome and any limitations this may place on the support they can receive.

UK GDPR Exemptions – When Information Can Be Shared Without Informing the SU

Under **AGAI 81.037**, there are specific exemptions where welfare providers may share personal data without informing the SU. These are based on UK GDPR, Data Protection Act 2018, and MOD policy.

1. Prevention or Detection of Crime

- Includes safeguarding concerns, domestic abuse, stalking, violence, or criminal behaviour.
- Example: Reporting a safeguarding concern to Service Police or civilian authorities.

2. Legal Obligation or Proceedings

- Disclosure required by law (including military law), or in connection with legal advice or defence of legal rights.
- Example: Informing the CO of suspected offences under Schedule 2 of the Armed Forces Act 2006.

3. Protection of the Public

- To protect the public from dishonesty, malpractice, serious misconduct, or incompetence.
- Example: Sharing information about a welfare provider suspected of abuse or negligence.

4. Health, Safety, and Welfare at Work

- To protect individuals at work or others from health risks.
- Example: Referring a SU to the Unit VRM Lead if they are at risk of suicide or self-harm.

5. National Security or Defence Purposes

- Disclosure necessary to safeguard national security or defence operations.
- Example: Sharing data with Defence authorities during a security threat.

6. Emergency Situations

- If disclosure is necessary to save life or prevent serious harm.
- Example: Informing emergency services during a medical crisis.

7. Safeguarding Children or Adults at Risk

- Mandatory referral to Army Welfare Service (AWS) for any safeguarding concerns.
- Example: Includes child protection plans, domestic abuse, and vulnerable adults.

8. Disclosure Prohibited or Restricted by Enactment

- Certain enactments specifically prohibit or restrict the disclosure of personal data. These include legislation relating to:
 - Human fertilisation and embryology
 - Adoption
 - Special educational needs
 - Parental orders
 - Children's hearings

Welfare providers must ensure that any disclosure complies with these legal restrictions.

- Example: Information relating to a SU's involvement in an adoption process must not be disclosed unless explicitly permitted by the relevant legislation.

Documentation and Justification

- Welfare providers must document and justify any decision to rely on an exemption.
- Advice should be sought from:
 - Local Data Protection Authority
 - Divisional Legal Branch
 - AWS or medical professionals (as appropriate)