



# Confidentiality and Data Protection Policy

## **1. Scope**

This Policy applies to all members of Healthwatch Hackney which includes staff, members of the Board of Trustees and all Sub Committees.

This document sets out the position of HACKNEY on confidentiality and protecting the data that it holds. The purpose of this policy document is to establish a clear and agreed understanding of what confidentiality means.

Healthwatch Hackney is committed to equality and diversity. It will never use any information it receives to discriminate against its members or against the wider community, or for any other purpose than that stated to the person who gave it.

## **2. Responsibility**

Healthwatch Hackney has a legal and moral obligation to ensure that specific personal information given to it is treated confidentially.

Under the Data Protection Act 1998, Healthwatch Hackney has a responsibility to ensure that all data it holds on individuals or groups must be held for valid reasons and must be held in a safe and secure manner.

All Members and Volunteers of Healthwatch Hackney are committed to ensuring that Healthwatch Hackney's Confidentiality and Data Protection policy is applied to all aspects of the Organisation's existence and work. To this end, it is the responsibility of each Healthwatch Member and Volunteer and staff member to be familiar with this policy, and to act in accordance with its aims and objectives.

## **3. What is confidentiality and data protection**

For the purpose of this policy, the Healthwatch Hackney believes that confidentiality extends to any sensitive information that Healthwatch is party to in the course of its activities. This includes information passed on in writing and verbally.

Data protection relates to the storage, access, and control of personal information held for Healthwatch Hackney and with the permission of the person to whom those details relate.

### **Why information is kept**

Healthwatch Hackney is a membership body. Its work is based upon the gathering of views and experiences of people living within Hackney about health and social care services within and across the Borough, and then ensuring that those views and experiences are taken into account by the providers and commissioners of health and social care operating within the Borough. To do this, Healthwatch will be party to and record information that could be considered confidential.

Healthwatch Hackney believes that in relation to its work, confidentiality can take two forms:

**● Sensitivity related confidentiality (i.e the type of information)**

Individuals, groups or communities may disclose to Healthwatch information that is of a sensitive nature, and is passed on in confidence. Sensitive information may be passed on to Healthwatch staff or member-volunteers to highlight a particular issue. This could include for example: details of treatment received for a medical condition to demonstrate an experience of accessing a service; or a service user might talk about personal circumstance, experiences of a personal nature, complaints made, cases of mistreatment or discrimination, or a combination of personal details which may allow them to be identified, such as their age or post code.

**● Safety related confidentiality (i.e. the handling of information)**

This relates to how confidential information given to Healthwatch is stored. For example, how a person's contact details are recorded and protected so only those authorised to access them are able to and how data from surveys and interviews with service users is kept.

**Use and storage of information given in confidence**

When an individual, or group passes on information that is of a personal nature it is Healthwatch Hackney's responsibility to ensure that this information is used in accordance with the wishes of those giving the information.

**Community engagement and research**

Healthwatch Hackney carries out community engagement work and research into peoples' views on health and social care services.

When meeting with an individual or group it is the responsibility of the Healthwatch Member/ Volunteer or staff member conducting the meeting to make clear what will happen with any information given and to ensure that those taking part are comfortable with how any information given will be recorded and used.

Healthwatch Hackney may not always be able to help with specific problems or individual complaints about services. In such instances Healthwatch Hackney will endeavour to signpost to the appropriate body that can help.

Healthwatch Hackney cannot act as an advocate on behalf of individuals.

When confidential information is passed to Healthwatch Hackney as evidence of a wider issue, the Organisation will take steps to protect the identity of the person giving the information.

Healthwatch Hackney aims to feedback to those individuals, groups, or communities that provided it information on what happened as a result. Therefore, it will be necessary to keep contact details and a record of involvement to facilitate this. Access to this confidential information will be restricted.

#### **4. Confidentiality and Data Protection Policy**

Healthwatch Hackney may keep anonymous information indefinitely so that trends in health and social care provision can be monitored. Information that is considered confidential will be stored for a relevant period of time (for example completed questionnaires will be kept for up to six years to allow for any queries to be raised with the conclusions drawn from the data), unless a request for it to be destroyed is received by the person to whom the information relates.

Reports created by the Healthwatch Hackney that contain evidence gathered from community engagement activities or research will not contain the names or any other identifying details of those that took part unless agreed.

##### **Contacts database**

Healthwatch Hackney maintains a database of contact details for its members and of those who have asked to be kept informed of its work. All details are stored by Healthwatch Hackney which acts as the data controller.

Any information stored within the contact database is with the knowledge and consent of those to whom it relates, or is taken from the public domain where that person has freely placed it.

Healthwatch Hackney respects people's rights to privacy and to their right to change their mind about having their information kept in the contact database. Anyone wishing to know what information is stored about them within the contact database may do so by contacting Healthwatch Hackney. Anyone wishing to have their information removed from the contact database may do so by contacting Healthwatch Hackney. This will amount to ending membership of the Healthwatch. All requests must be in writing via an email to the official Healthwatch Hackney email address or by post to Healthwatch Hackney at the official office address.

Healthwatch Hackney only uses the information stored within its contact database to pass on information relating to its work. Healthwatch Hackney will not pass on any confidential information from its contact database without consent from the person to whom the information relates.

Consent to pass on details of members have to be in written form, sent either by email or by post and only from the consenting member. Where there is dispute about consent, Healthwatch Hackney may request proof of identification to be given.

Should Healthwatch Hackney as constituted cease to be involved in the delivery of the service, then confidential information held by it will only be passed on to any other organisation with the consent of those to whom the information relates. Should permission not be given for this information to be passed on then it will be destroyed.

### **Monitoring information**

Healthwatch reports on its contract to the Royal Borough of Kensington and Chelsea (as the lead borough for the Tri-borough) and keeps a range of paper and electronic information to facilitate this. Individuals will not be identified in such reports without their explicit consent.

## **5. Confidentiality and Data Protection Policy**

Healthwatch Hackney works to ensure that it provides information to the community about its work through different mechanisms including but not limited to a website, newsletter and annual report. Healthwatch will ensure that confidential information is not passed on without consent.

Healthwatch collects ethnic and other demographic monitoring information to ensure that it is facilitating diverse involvement in its membership and work.

### **Circumstance for breaching confidentiality**

Healthwatch Hackney will not disclose sensitive information to a third party without the individual's consent except in a situation where there is a considerable or significant risk of harm to an individual or to others, or where there is a legal duty to do so.

There is a legal duty to breach confidentiality in cases of:-

- Child abuse, in which case a report will be made to the relevant Social Services Department.
- To prevent crime for example: drug trafficking, money laundering, acts of terrorism or treason, in which case a report will be made to the relevant police force.

There are two main Acts of Law that Healthwatch Hackney must adhere to when dealing with confidential matters. The first is the Human Rights Act 1998. The second is the Public Disclosure Act 2012.

Should a situation arise where a Healthwatch Volunteer / Member or a staff member feels information they have received fulfils the condition for breach of confidentiality, as outlined in the Human Rights Act 1998, or is covered by the Public Disclosure Act 2012, they have a duty to report the information to the Chief Executive of Healthwatch Hackney.

If a Volunteer / Member or staff member is unsure whether a breach of confidentiality needs to occur, then they must discuss the matter with the Healthwatch Hackney Chief Executive, who will then make a decision as to whether to proceed further in reporting the matter to any authorities.

Any information passed to the Chief Executive for possible confidentiality breach will be assessed according to the Human Rights Act 1998, the Public Disclosure Act 2012, and any other relevant legislation.

Should a breach of confidentiality be required then the Healthwatch Hackney Chief Executive will pass the information on to the appropriate body.

Any confidential information passed to the Chief Executive that is assessed as not needing to be passed on under these acts will be destroyed or stored depending on its value to the Healthwatch Hackney and in accordance with this policy.

### **Data protection**

Healthwatch Hackney is committed to ensuring the safety and security of all confidential information it possesses.

All confidential information kept by Healthwatch Hackney is stored upon a secure server and access to that information is password protected. Where information is stored upon a portable device, such as a laptop computer, that device must also be password protected.

Only those members of staff who are directly employed to work for Healthwatch Hackney should have knowledge of the passwords required to access stored information.

Should a member of Healthwatch staff leave their post then Healthwatch Hackney will ensure any confidential information held by that person is returned, and that their access to all information systems are removed including any passwords.

## Complaints/breaches of this policy

Healthwatch Hackney has a complaints policy which affords individuals the opportunity to both provide positive feedback or to raise issues of concern.

Anyone who is unhappy with something that the organisation or one of its representatives has done or said or who suspects that a breach of confidentiality has occurred may use the complaints procedure to lodge a complaint with Healthwatch Hackney.

Any complaints made using the policy will be treated with the utmost confidentiality and only those directly involved with investigating the complaint will know the identity of the complainant.

Healthwatch Hackney is committed to ensuring that its policies and procedures meet the purposes they are created to fulfil. In the event that a situation arise where this can be demonstrated not to be the case, the organisation will investigate and review any relevant policies, with a view to amending them if this is found to be necessary.

Breaches of confidentiality will be treated very seriously. Staff accessing unauthorised files or breaching confidentiality are likely to face disciplinary action. Ex-employees breaching confidentiality may face legal action. Volunteers breaching confidentiality will be in breach of the Healthwatch Hackney Code of Conduct and subject to the sanctions described therein.

## Appendix 1 legal provisions regarding confidentiality

### Human Rights Act 1998

Article 8.2 of the Act makes a provision for organisations to breach confidentiality only if it satisfies the following three conditions:-

- Be in accordance with the law;
- There must be a proper legal basis, such as a piece of legislation or rules of a professional body;
- Must pursue the following identified legitimate aims:
  - acting in the interests of national security, public safety or the economic well-being of the country;
  - acting for the prevention of disorder or crime;
  - acting for the protection of health or morals;
  - acting for the protection of the rights and freedoms of others.

### The Public Disclosure Act 2012

The Public Disclosure Act 2012 establishes a responsibility for all organisations to disclose information to the appropriate bodies regarding the following:-

- A criminal offence;

- Failure to comply with legal obligations;
- A miscarriage of justice;
- Danger to health or safety of any individual;
- Any damage to the environment;
- An attempt to cover up information that would provide evidence that any of these five practices occurred.