



10.4 CONFIDENTIALITY AND CLIENT ACCESS TO RECORDS

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Policy statement

‘Confidential information is information that is not normally in the public domain or readily available from another source, it should have a degree of sensitivity and value and be subject to a duty of confidence. A duty of confidence arises when one person provides information to another in circumstances where it is reasonable to expect that the information will be held in confidence.’

Information Sharing: *Advice for practitioners providing safeguarding services to children, young people, parents and carers July 2018*

In our setting, staff and managers can be said to have a ‘confidential relationship’ with families. It is our intention to respect the privacy of children and their parents and carers, while ensuring that they access high quality early years care and education in our setting. We aim to ensure that all parents and carers can share their information in the confidence that it will only be used to enhance the welfare of their children. We have record keeping systems in place that meet legal requirements; the means that we use to store and share that information takes place within the framework of the General Data Protection Regulations (2018) and the Human Rights Act (1998).

Confidentiality Procedures:

- Parents will have access to records of their own children but not to those of other children.
- Most things that happen between the family, the child and the setting are confidential to our setting. In exceptional circumstances information is shared, for example with other professionals or possibly social care or the police.
- Information shared with other agencies is done in line with our Information Sharing Policy.
- We always check whether parents regard the information they share with us to be confidential or not.
- We inform parents when we need to record confidential information beyond the general personal information we keep (see our Children’s Records Policy) – for example with regard to any injuries, concerns or changes in relation to the child or the family, any discussions with parents on sensitive matters, any records we are obliged to keep regarding action taken in respect of child protection and any contact and correspondence with external agencies in relation to their child.

- We keep all records securely (see our Children's Records Policy and Privacy Notice).
- Staff will not discuss individual children with people other than parents/carers of that child.
- Students observing in pre-school will be advised of our confidentiality policy and required to respect it.
- Our discussions with other professionals take place within a professional framework and not on an informal or ad-hoc basis.
- Where third parties share information about an individual with us; our practitioners and managers check if it is confidential, both in terms of the party sharing the information and of the person whom the information concerns.
- Issues involved in employment of staff, paid or unpaid, will remain confidential to the people concerned.

Client access to records procedures

Parents may request access to any confidential records we hold on their child and family. All requests will be dealt with expeditiously and in line with the requirements of the General Data Protection Regulations (2018).

The parent is the 'subject' of the file in the case where a child is too young to give 'informed consent' and has a right to see information that our setting has compiled on them.

Any request to see the child's personal file by a parent or person with parental responsibility must be made in writing to the setting owners.

We acknowledge the request in writing, informing the parent that an arrangement will be made for him/her to see the file contents, subject to third party consent.

Our written acknowledgement allows one month for the file to be made ready and available. We will be able to extend this by a further two months where requests are complex or numerous. If this is the case, we will inform you within one month of the receipt of the request and explain why the extension is necessary

A fee may be charged for repeated requests, or where a request requires excessive administration to fulfil.

Legal advice may be sought before sharing a file.

The owners and manager go through the file and ensures all documents have been filed correctly, that entries are in date order and that there are no missing pages. They note any information, entry or correspondence or other document which mentions a third party.

'Third parties' include each family member noted on the file; so where there are separate entries pertaining to each parent, step parent, grandparent etc. we write to each of them to request third party consent.

Third parties also include workers from any other agency, including children's social care and the health authority for example. Agencies will normally refuse consent to share information, preferring

instead for the parent to be redirected to those agencies for a request to see their file held by that agency.

We write to each of those individuals explaining that the subject has requested sight of the file, which contains a reference to them, stating what this is.

They are asked to reply in writing to the owners giving or refusing consent for disclosure of that material.

We keep copies of these letters and their replies on the child's file.

Members of our staff should also be written to, but we reserve the right under the legislation to override a refusal for consent or to just delete the name of the staff member and not the information. We may grant refusal if the member of staff has provided information that could be considered 'sensitive' and the staff member may be in danger if that information is disclosed; or if that information is the basis of a police investigation. However, if the information is not sensitive, then it is not in our interest to withhold that information from a parent. In each case this should be discussed with members of staff and decisions recorded.

When we have received all the consents/refusals a photocopy will be taken of the complete file. On the copy of the file, any information that a third party has refused consent for to disclose is removed and any references to the third party is blanked out using a thick marker pen.

The copy file is then checked by the owners and legal advisors to verify that the file has been prepared appropriately.

What remains is the information recorded by the setting, detailing the work initiated and followed by them in relation to confidential matters. This is called the 'clean copy'.

We photocopy the 'clean copy' again and collate it for the parent to see.

The owners inform the parent that the file is now ready and invite[s] him/ her to make an appointment to view it.

The owners will meet with the parent to go through the file, explaining the process as well as what the content of the file records about the child and the work that has been done. Only the person(s) with parental responsibility can attend that meeting, or the parent's legal representative or interpreter.

The parent may take a copy of the prepared file away; but, to ensure it is properly explained to and understood by the parent, we never hand it over without discussion.

It is an offence to remove material that is controversial or to rewrite records to make them more acceptable.

Our recording procedures and guidelines ensure that the material reflects an accurate and non-judgemental account of the work we have done with the family.

If a parent feels aggrieved about any entry in the file, or the resulting outcome, then we refer the parent to our complaints procedure.

The law requires that the information we hold must be held for a legitimate reason and must be accurate (see our Privacy Notice). If a parent says that the information we hold is inaccurate, then the parent has a right to request for it to be changed. However, this only pertains to factual inaccuracies. Where the disputed entry is a matter of opinion, professional judgement, or

represents a different view of the matter than that held by the parent, we retain the right not to change that entry, but we can record the parent's view of the matter. In most cases, we would have given a parent the opportunity at the time to state their side of the matter, and it would have been recorded there and then.

If there are any controversial aspects of the content of a child's file, we must seek legal advice. This might be where there is a court case between parents, where social care or the police may be considering legal action, or where a case has already completed and an appeal process is underway.

We never 'under-record' for fear of the parent seeing, nor do we make 'personal notes' elsewhere.

Telephone advice regarding general queries may be made to The Information Commissioner's Office Helpline 0303 123 1113.

All the undertakings above are subject to the paramount commitment of our setting, which is to the safety and well-being of the child. Please see also our policy on Safeguarding Children and Child Protection.

Legal framework

General Data Protection Regulations (GDPR) (2018)

Human Rights Act (1998)