

# Safeguarding Children

## 1.4 Confidentiality and Client Access to Records

### Policy statement

Under the General Data Protection Regulations there are additional rights granted to data subjects which must be protected by the setting.

At Cullompton Pre-School 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 pre-school. 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. There are record keeping systems in place that meet legal requirements; means of storing and sharing that information take place within the framework of the General Data Protection Regulations (2018) and the Human Rights Act (1998).

### Confidentiality procedures

- All information given by parents is treated as confidential.
- Some parents sometimes share information about themselves with other parents as well as staff; the setting cannot be held responsible if information is shared beyond those parents whom the person has 'confided' in.
- Information shared between parents in a discussion or training group is usually bound by a shared agreement that the information is confidential to the group and not discussed outside of it.
- We inform parents when we need to record confidential information beyond the general personal information we keep (see our Children's Records Policy and Privacy Notice) - 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. (See Policy statement within 1.5 Information Sharing).
- We keep all records securely. Where information is kept electronically, we ensure that PCs are password protected.

- All our Committee members sign a confidentiality statement.

### **Client access to records procedures**

The parent is the 'subject' of the file/records (we file by child's name) in the case where a child is too young to give 'informed consent' and has a right to see information that the setting has compiled on them. Parents may request access to any confidential records held on their child and family following the procedure below:

- 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 leader or manager, who will ensure the records are made available at an agreed time.
- The pre-school leader informs the chairperson of the management committee and sends a written acknowledgement, if deemed necessary.
- The pre-school commits to providing information with 30 days on receipt of the request. although this may be extended 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 to the parent for additional requests for the same material, or any requests that will incur excessive administration costs.
- The pre-school's leader or manager and chairperson of the management committee prepare the file for viewing. They ensure that all documents are filed correctly, entries are in date order and that there are no missing pages. They will note any information, entry or correspondence or other document which mentions a third party. The pre-school leader should ensure that recording is of good quality, accurate, fair, balance and proportionate and should have quality assurance processes in place to ensure that files are checked for quality regularly and that any issues are addressed promptly.
- Each of those individuals are written to explaining that the subject of the file 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 setting manager giving or refusing consent for disclosure of that material.
- Copies of these letters and their replies are kept on the child's file.
- Agencies will normally refuse consent to share information, and the parent should be redirected to those agencies for a request to see their file held by that agency.

- Entries where you have contacted another agency may remain, for example, a request for permission from social care to leave in an entry where the parent was already party to that information.
- Each family member noted on the file is a third party, so where there are separate entries pertaining to each parent, step-parent, grandparent etc, each of those have to be written to regarding third party consent.
- Members of staff should also be written to, but the setting reserves the right under the legislation to override a refusal for consent, or just delete the name and not the information.
  - 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, then the refusal may be granted.
  - If that information is the basis of a police investigation, then refusal should also be granted.
  - If the information is not sensitive, then it is not in the setting's interest to withhold that information from a parent. It is a requirement of the job that if a member of staff has a concern about a child and this is recorded; the parents are told this at the start and in most cases, concerns that have been recorded will have been discussed already, so there should be no surprises.
  - The member of staff's name can be removed from an entry, but the parent may recognise the writing or otherwise identify who had provided that information. In the interest of openness and transparency, the setting manager may consider overriding the refusal for consent.
  - In each case this should be discussed with members of staff and decisions recorded.
- When the consent/refusals have been received, the pre-school leader takes a photocopy of the whole file. On the copy file the document not to be disclosed is removed (e.g. a case conference report) or notes pertaining to that individual in the contact pages blanked out using a thick marker pen.
- The copy file is then checked by the pre-school leader/chairperson and legal advisors verify that the file has been prepared appropriately, for instance, in certain circumstances redaction may be appropriate, for instance if a child may

be damaged by their data being seen by their parent/carer, e.g. if they have disclosed abuse. This must be clarified with the legal adviser.

- The 'cleaned' copy is then photocopied again and collated for the parent to see.
- The pre-school leader informs the parent that the file is now ready and invites him/her to make an appointment to view it.
- The pre-school leader/chairperson meet with the parent to go through the file, explaining the process as well as what the content records about the child and the work that has been done. Only the persons 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 it is never handed over without discussion.
- It is an offence to remove material that is controversial or to rewrite records to make them more acceptable. If recording procedures and guidelines have been followed, the material should reflect an accurate and non-judgemental account of the work done with the family.
- If a parent feels aggrieved about any entry in the file, or the resulting outcome, then the parent should be referred to our policy 1.10 Making a Complaint.
- The law requires that information held must be accurate, and if a parent says the information held is inaccurate then the parent has a right to request 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, the setting retains the right not to change the entry but can record the parent's view. In most cases, a parent would have had the opportunity at the time to state their side of the matter, and this should have been recorded there and then.
- If there are any controversial aspects of the content of a client's file, legal advice must be sought. This might be where there is a court case between parents or where social care or the police may be considering legal action, or where a case has already completed and an appeal process is underway.
- A setting should never 'under-record' for fear of the parent seeing, nor should they make 'personal notes' elsewhere.

All the undertakings above are subject to the paramount commitment of the pre-school, which is to the safety and well-being of the child. Please see also our policy on child protection.

### Further guidance

The Information Commissioner's Office [www.ico.gov.uk/](http://www.ico.gov.uk/) or helpline 0303 123 1113.

### Legal References

General Data Protection Regulations 2018

Freedom of Information Act 2000

Human Rights Act 1998

Statutory Framework for the Early Years Foundation Stage

	Cullompton Pre-School	name of setting
This policy was adopted at a meeting of		
Held on	<u>23<sup>rd</sup> June 2010</u>	(date)
Date to be reviewed	<u>23<sup>rd</sup> June 2011</u>	(date)
Signed on behalf of the management committee	<u>Michelle Ratcliff</u>	
Name of signatory	<u>Michelle Ratcliff</u>	
Role of signatory (e.g. chair/owner)	<u>Chairperson</u>	

This policy was updated by the Pre-School Learning Alliance and, thus, has been subsequently reviewed and re-adopted by the management committee.

Re-adopted at a meeting held on	<u>16<sup>th</sup> February 2011</u>	(date)
Date to be reviewed	<u>February 2012</u>	
Signed on behalf of the management committee	<u>E M Jones</u>	
Name of signatory	<u>Emma Jones</u>	
Role of signatory (e.g. chair/owner)	<u>Chairperson</u>	

This policy has an annual review period and, as such, will be reviewed and signed off at a management committee meeting of Cullompton Pre-School each year, as shown below.

Previously reviewed on:-	22 <sup>nd</sup> February 2016	by	Sarah Lush Chairperson
Previously reviewed on:-	27 <sup>th</sup> March 2017	by	Sarah Lush Chairperson
Previously reviewed on:-	25 <sup>th</sup> March 2019	by	Alex Fox Chairperson
Previously reviewed on:-	16 <sup>th</sup> May 2022	by	Jack Madge Chairperson

Reviewed by Staff on:	25 <sup>th</sup> September 2023 (MW)
Reviewed by Committee on:	17 <sup>th</sup> November 2023
Date of next review:	September 2024
Signed on behalf of the Management Committee:	J Shere
Name of Signatory (printed):	James Shere
Role of Signatory (e.g. Chairperson)	Chairperson