Tring Stepping Stones Pre-School

**Confidentiality, recording and sharing information (Client Access to Records)**

**Policy statement**

Most things that happen between the family, the child and the setting are confidential to the setting. In certain circumstances information is shared, for example, a child protection concern will be shared with other professionals including social care or the police, and settings will give information to children’s social workers who undertake S17 or S47 investigations. Normally parents should give informed consent before information is shared, but in some instances, such as if this may place a child at risk, or a serious offence may have been committed, parental consent should not be sought before information is shared. Local Safeguarding Partners (LSP) procedures should be followed when making referrals, and advice sought if there is a lack of clarity about whether or not parental consent is needed before making a referral due to safeguarding concerns.

In 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 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.

**Confidentiality procedures**

* most things that happen between the family, the child and preschool 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 verbally check whether parents and guardians regard the information they share with us to be regarded as confidential or not.

 Some parents sometimes share information about themselves with other parents as well as staff; pre-school 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 not responsible should that confidentiality be breached by participants.

 We inform parents when we need to record confidential information beyond the general personal information we keep (see our Record Keeping 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.

 We keep all records securely (In a locked filing cabinet at the setting) all staff have access to the locked cabinet on a need to access basis (see our Children's Records Policy and Privacy Notice)..

* Most information is kept in a manual file. However, preschool staff may use a computer to type reports, or letters. Where this is the case, the typed document is deleted from the PC and only the hard copy kept.
* Where it is helpful to keep an electronic copy, we upload it onto our dropbox. [No documents are kept on the hard drive. This is because the settings’ PC’s do not have facilities for confidential user folders.]
* Preschool staff discuss children’s general progress and well being together in meetings, but more sensitive information is restricted to our manager and the child’s key person, and is shared with other staff on a need to know basis.
* We do not discuss children with other parents or anyone else outside of the setting.
* Discussions with other professionals take place within a professional framework and not on an informal or ad-hoc basis. Notes are made of any discussions and kept in the relevant file or day book.
* Where third parties share information about an individual preschool will check if it is confidential, both in terms of the party sharing the information and of the person whom the information concerns.
* When recording general information, staff should ensure that records are dated correctly and the time is included where necessary, and signed.
* Records are non-judgemental and do not reflect any biased or discriminatory attitude.

**Client access to records procedures**

Parents may request access to any confidential records held on their child and family following the procedure below:

* 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 preschool 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 preschool leader
* Information must be provided within 30 days of receipt of request. If the request for information is not clear, the manager must receive legal guidance, for instance, from Law-Call for members of the Alliance. In some instances it may be necessary to allow extra time in excess to the 30 days to respond to the request. An explanation must be given to the parent where this is the case. The maximum extension time is 2 months.
* preschool 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.
* The chairperson is informed of the request and legal advice may be sought before sharing a file/I may seek legal advice before sharing a file.]

the preschool leader goes through the file with the chair person and ensures that all documents have been filed correctly, that 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.

* we would then 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 preschool leader giving or refusing consent for disclosure of that material.
* we keep copies of these letters and their replies on the child’s file.
* ‘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.
* Entries where another agency have been contacted may remain eg a request for permission from social care to leave in an entry where the parent was already party to that information.
* Members of 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 the preschool leader takes a photocopy of the complete file. On the copy of the file, the preschool leader removes any information that a third party has refused consent for us to disclose and blank out any references to the third party, and any information they have added to the file, using a thick marker pen.
* The copy file is then checked by the preschool leader and chairperson 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 preschool leader tells the parent that the file is now ready and invites them to view it and 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 held for a legitimate reason and must be accurate (see our Privacy Notice).If a parent says that the information 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.
* A setting should never ‘under-record’ for fear of the parent seeing, nor should they make ‘personal notes’ elsewhere.

**Breach of confidentiality**

* A breach of confidentiality occurs when confidential information is not authorised by the person who provided it, or to whom it relates, without lawful reason to share.
* The impact is that it may put the person in danger, cause embarrassment or pain.
* It is not a breach of confidentiality if information was provided on the basis that it would be shared with relevant people or organisations with lawful reason, such as to safeguard an individual at risk or in the public interest, or where there was consent to the sharing.
* Procedure 07.1 Children’s records and data protection must be followed.

***Exception***

* GDPR enables information to be shared lawfully within a legal framework. The Data Protection Act 2018 balances the right of the person about whom the data is stored with the possible need to share information about them.
* The Data Protection Act 2018 contains “safeguarding of children and individuals at risk” as a processing condition enabling “special category personal data” to be processed and to be shared. This allows practitioners to share without consent if it is not possible to gain consent, if consent cannot reasonably be gained, or if gaining consent would place a child at risk.
* Confidential information may be shared without authorisation - either from the person who provided it or to whom it relates, if it is in the public interest and it is not possible or reasonable to gain consent or if gaining consent would place a child or other person at risk. The Data Protection Act 2018 enables data to be shared to safeguard children and individuals at risk. Information may be shared to prevent a crime from being committed or to prevent harm to a child, Information can be shared without consent in the public interest if it is necessary to protect someone from harm, prevent or detect a crime, apprehend an offender, comply with a Court order or other legal obligation or in certain other circumstances where there is sufficient public interest.
* Sharing confidential information without consent is done only in circumstances where consideration is given to balancing the needs of the individual with the need to share information about them.
* When deciding if public interest should override a duty of confidence, consider the following:
* is the intended disclosure appropriate to the relevant aim?
* what is the vulnerability of those at risk?
* is there another equally effective means of achieving the same aim?
* is sharing necessary to prevent/detect crime and uphold the rights and freedoms of others?
* is the disclosure necessary to protect other vulnerable people?

The decision to share information should not be made as an individual, but with the backing of the designated person who can provide support, and sometimes ensure protection, through appropriate structures and procedures.

**Obtaining consent**

Consent to share information is not always needed. However, it remains best practice to engage with people to try to get their agreement to share where it is appropriate and safe to do so.

Using consent as the lawful basis to store information is only valid if the person is fully informed and competent to give consent and they have given consent of their own free will, and without coercion from others, Individuals have the right to withdraw consent at any time.

You should not seek consent to disclose personal information in circumstances where:

* someone has been hurt and information needs to be shared quickly to help them
* obtaining consent would put someone at risk of increased harm
* obtaining consent would prejudice a criminal investigation or prevent a person being questioned or caught for a crime they may have committed
* the information must be disclosed regardless of whether consent is given, for example if a Court order or other legal obligation requires disclosure

**NB. The serious crimes indicated are those that may harm a child or adult; reporting confidential information about crimes such as theft or benefit fraud are not in this remit.**

* Settings are not obliged to report suspected benefit fraud or tax evasion committed by clients, however, they are obliged to tell the truth if asked by an investigator.
* Parents who confide that they are working while claiming should be informed of this and should be encouraged to check their entitlements to benefits, as they it may be beneficial to them to declare earnings and not put themselves at risk of prosecution.

**Consent**

* Parents share information about themselves and their families. They have a right to know that any information they share will be regarded as confidential as outlined in 07.1a Privacy notice. They should also be informed about the circumstances, and reasons for the setting being under obligation to share information.
* Parents are advised that their informed consent will be sought in most cases, as well as the circumstances when consent may not be sought, or their refusal to give consent overridden.
* Where there are concerns about whether or not to gain parental consent before sharing information, for example when making a Channel or Prevent referral the setting manager must inform their line manager for clarification before speaking to parents
* Consent must be informed - that is the person giving consent needs to understand why information will be shared, what will be shared, who will see information, the purpose of sharing it and the implications for them of sharing that information.

**Separated parents**

* Consent to share need only be sought from one parent. Where parents are separated, this would normally be the parent with whom the child resides.
* Where there is a dispute, this needs to be considered carefully.
* Where the child is looked after, the local authority, as ‘corporate parent’ may also need to be consulted before information is shared.

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

Telephone advice regarding general queries may be made to The Information Commissioner’s Office Helpline 0303 123 1113 or visit

Tring stepping stones have registered with the ICO and our data protection controller is The preschool leader.

All the undertakings above are subject to the paramount commitment of the setting, which is to the safety and well-being of the child. Please see also our policy on safeguarding children and child protection, Tring stepping stones Record keeping policy.

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| --- | --- | --- |
| This policy was adopted at a meeting of | Tring Stepping Stones Pre-School |  |
| Held on |  |  |
| Date to be reviewed | July 2024 |  |
| Signed on behalf of the management committee |  |  |
| Name of signatory |  |  |
| Role of signatory (e.g. chair/owner) |  |  |

|  |  |  |
| --- | --- | --- |
| Staff name | Staff signature | Date policy was read |
| Lucy Brittain |  |  |
| Nicola Poulton |  |  |
| Nicola Reynolds |  |  |
| Kim Smith |  |  |
| Jo Davis |  |  |
|  |  |  |
|  |  |  |

2012 review- no changes

Feb 2013 - changes to the policy regarding the copy of the file that have been requested. We photocopy it and its called a sanitised copy. We would only go through this with the requestor and then keep the photocopied file with the original copy. Added record keeping policy to further guidance

Feb 2014 changes-

Eyfs theme removed.

Added that we are registered with the ico and tricia is the data protection controller.

Client access to records procedures had changed slightly.

March 2015- taken tricias name off, no other changes

April 2016- no changes

April 2017 – first paragraph has been updated…… Share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason to do so, such as where safety may be at risk. You will need to base your judgement on the facts of the case.’

Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (HMG 2015)

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 not responsible should that confidentiality be breached by participants.

April 2018

Welfare Statement box at the top of policy

GDPR and Privacy Notice added throughout policy

* Added: Where it is helpful to keep an electronic copy, we upload it onto our dropbox. [No documents are kept on the hard drive. This is because the settings’ PC’s do not have facilities for confidential user folders.]
* Under Client Access Procedures. The law states: we hold must held for a legitimate reason and must be accurate (see our Privacy Notice)

June 2019 - 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

July 2020- no changes

* May 2022- Most things that happen between the family, the child and the setting are confidential to the setting. In certain circumstances information is shared, for example, a child protection concern will be shared with other professionals including social care or the police, and settings will give information to children’s social workers who undertake S17 or S47 investigations. Normally parents should give informed consent before information is shared, but in some instances, such as if this may place a child at risk, or a serious offence may have been committed, parental consent should not be sought before information is shared. Local Safeguarding Partners (LSP) procedures should be followed when making referrals, and advice sought if there is a lack of clarity about whether or not parental consent is needed before making a referral due to safeguarding concerns.
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July 2023 – updated ICO website link. Added section regarding entries from other agencies that may remain in the document.