

## Safeguarding and Welfare Requirement: Information and Records

Providers must maintain records and obtain and share information to ensure the safe and efficient management of the setting, and to help ensure the needs of all children are met

### INFORMATION SHARING POLICY (August 2020)

This Policy is linked to the following other policies:

- Our Privacy, Fair Processing and Cookies Policy , which set out how information and data is collected, used and stored the legal basis for these things we do
- Our Data Use Internal Guide for Staff, Trustees and Volunteers which explains to the board, staff and volunteers the precautions we take to keep information safe and gives guidance on how it should be handled.

This policy gives further guidance about sharing information - which as the quotation below states is an important part of our everyday work and must be undertaken with care.

*'Sharing information is an intrinsic part of any frontline practitioners' job when working with children and young people. The decisions about how much information to share, with whom and when, can have a profound impact on individuals' lives. It could ensure that an individual receives the right services at the right time and prevent a need from becoming more acute and difficult to meet. At the other end of the spectrum it could be the difference between life and death.'*

Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers  
(HM Government 2015)

**This policy covers the following:**

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#### Policy statement

Riding Mill Outdoor Preschool recognises that parents and carers have a right to know that the information they share with us will be regarded as confidential, as well as to be informed about the circumstances when, and the reasons why, we are obliged to share information. (In some circumstances we are not obliged the share the data and in those circumstances we would usually seek your express consent first).

## Confidentiality and client access to records

In our setting, staff and managers can be said to have a 'confidential relationship' with families. These obligations are made clear in staff contracts of employment for example. 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 and practical requirements (details of our systems are set out in our Records Management Policy). 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

- 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 this Information Sharing Policy.
- We always check whether parents regard the information they share with us to be confidential or not. We prefer to ask for their permission to share information - and we will always make sure we inform parents about the information that we collect and how it will be used or shared - to ensure any consent is properly informed.
- Some parents may share information about themselves with other parents; we cannot be held responsible if information is shared by those parents whom the person has 'confided' in.
- Information shared between parents in a discussion or training group (even if this discussion is held at our setting or at our request) is usually bound by a shared informal agreement between the participants that the information is confidential to the group and not discussed outside of it. We are 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 - 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 accordance with our Records Management Policy.
- Our staff discuss children's general progress and wellbeing together in meetings, but more sensitive information is restricted to our manager and the child's key person, and is only shared with other staff and relevant committee members (e.g. committee safeguarding lead) on a need to know basis.
- We do not discuss children with staff or volunteers who are not involved in the child's care, nor with other parents or anyone else outside of the setting.
- Our discussions with other professionals take place within a professional framework and not on an informal or ad-hoc basis. We may explore ideas and take advice using anonymised information or 'hypothetical examples', when appropriate.

- 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.

### Client access to record procedures (Subject Access Requests)

Parents may request access to any confidential records we hold 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 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 leader or manager.
- 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
- Making a request is usually free but a fee may be charged for repeated requests, or where a request requires excessive administration to fulfil.
- Our manager (the Leader) informs their line manager (Chair of the Board of Trustees) and legal advice may be sought before sharing a file
- Our manager (the Leader) goes through the file with their line manager (Chair of the Board of Trustees) and ensures that 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.
- 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 Leader or a nominated Trustee 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.
- 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/redact the name of the staff member and not the information. We may agree 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 our manager (the Leader) takes a photocopy of the complete file. On the copy of the file, our manager (the Leader) removes any information that a third party has refused consent for us to disclose and blank out redact any references to the third party, and any information they have added to the file, using a thick marker pen or similar method.
- The copy file is then checked by the line manager (Chair of Trustees) 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.
- Our manager (the Leader) informs the parent that the file is now ready and invites him/ her to make an appointment to view it.
- Our manager (the Leader) and the chair of trustees 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 [link]). 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.

## Information sharing

We record and share information about children and their families (data subjects) in line with the six principles of the General Data Protection Regulations (GDPR) (2018) which are further explained in our Privacy Notice that is published on our website.

The six principles state that personal data must be:

1. Processed fairly, lawfully and in a transparent manner in relation to the data subject.
2. Collected for specified, explicit and legitimate purposes and not further processed for other purposes incompatible with those purposes.
3. Adequate, relevant and limited to what is necessary in relation to the purposes for which data is processed.
4. Accurate and where necessary, kept up to date.
5. Kept in a form that permits identification of data subjects for no longer than is necessary for the purposes for which the data is processed.
6. Processed in a way that ensures appropriate security of the personal data including protection against accidental loss, destruction or damage, using appropriate technical or organisational measures

We are obliged to share confidential information without authorisation from the person who provided it, or to whom it relates, if it is in the public interest. That is when:

- it is to prevent a crime from being committed or to intervene where one may have been, or to prevent harm to a child or adult; or
- not sharing it could be worse than the outcome of having shared it.

### *Decision making*

- The responsibility for decision making should not rely solely on an individual, but should have the back-up of the management team. The Chair of Trustees is the key point of contact for questions about data protection questions on the subject can be sent to [chair.rmop@outlook.com](mailto:chair.rmop@outlook.com)
- Decisions will not be made alone and decision makers are supported. The setting leaders and other members of the board can be called in to support difficult decision making. The Board and Management team have developed clear guidance, policy and procedures to ensure all staff and volunteers understand their information sharing responsibilities and are able to respond in a timely, appropriate way to any safeguarding concerns. This is covered in the training provided to staff. Being clear about when it is right to share data is a key element of keeping children safe and maintaining effective relationships with parents and carers.

### *Decision making support*

- The decision should never be made as an individual, so without sharing confidential information, we will seek guidance specialists - such as our contacts with Northumberland County Council, or other members of the child care community.
- We are members of the Early Years Alliance and they can also help us. If necessary, we can even seek external legal advice. Any of these methods will be considered carefully and will be co-ordinated and organised by the Chair of the Trustee Board.

We have clear guidance, policy and procedures to ensure our staff, volunteers and committee members understand their information sharing responsibilities and are able to respond in a timely, appropriate way to any safeguarding concern. The three critical criteria are:

- Where there is evidence that the child is suffering, or is at risk of suffering, significant harm.
- Where there is reasonable cause to believe that a child may be suffering, or is at risk of suffering, significant harm.
- To prevent significant harm arising to children and young people or adults, including the prevention, detection and prosecution of serious crime.

### **Information sharing procedure**

Our procedure is based on the GDPR principles as listed above and the seven golden rules for sharing information in the 'Information sharing advice for practitioners providing safeguarding services to children, young people, parents and carers'

([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721581/Information\\_sharing\\_advice\\_practitioners\\_safeguarding\\_services.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721581/Information_sharing_advice_practitioners_safeguarding_services.pdf)). We also follow the guidance on information sharing from the Local Safeguarding Children Board. <https://www.northumberland.gov.uk/Children/Safeguarding.aspx>

1. **Remember** that the General Data Protection Regulation 2018 and human rights law are not barriers to justified information sharing as per the Children Act 1989, but provide a framework to ensure that personal information about living individuals is shared appropriately.
2. **Be open and honest** with the individual (and/or their family where appropriate) from the outset about why, what, how and with whom information will, or could be shared, and seek their consent, unless it is unsafe or if we have a legal obligation to do so. This is set out in our Privacy Notice and is given to parents at the point of registration to explain this further. It is referred to in our terms and conditions - which all parents sign up to at the point of registration and is also published on our website.

In our setting we ensure:

- Parents receive a copy of our Privacy Notice and information about our Information Sharing Policy when starting their child in the setting and that they sign our Registration Form during the registration process:
- to say that they understand and acknowledge the circumstances in which information may be shared without their consent. This will only be when it is a matter of safeguarding a child or vulnerable adult;
- we will ask parents to consent to using information for other purposes and in these circumstances consent will be requested (e.g. to use images on our website or in our publicity)
- Our staff and Trustees are happy to discuss this in detail with parents. We will explain when we might need to share information (e.g in relation to emergency medical treatment when a parent cannot be contacted or when the welfare of the child outweighs other rights);
- Our Privacy Notice is kept up to date and is available on our website and our policies also make it clear when information might be shared as a result of consent given during registration.
- Our Terms and Conditions, which form the basis of our legal relationship (contract) with Parents are understood and kept up to date.
- We have information about our Safeguarding Children, Young People and Vulnerable Adults Policy and it is available on our website; and
- We have information about the other circumstances when information will be shared with external agencies, for example, with regard to any special needs the child may have or transition to school.

**3. Seek advice from other practitioners, the Leader and the Board if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual or other confidential information where possible. If you are in any doubt, you must never share information without the authority of the Chair of Trustees**

- Our staff discuss concerns about a child routinely in supervision and any actions are recorded in the child's file.
- The leader may discuss concerns or patterns of behaviour at the Board and there is a regular safeguarding item on the Board Agenda to ensure the discussion is always prompted. All board meetings are confidential.
- The leader can always get support and advice from the board through the chair
- Our Safeguarding Children, Young People and Vulnerable Adults Policy sets out the duty of all members of our staff to refer concerns to our manager or deputy, as designated person, who will contact children's social care ( Northumberland County Council) for advice where they have doubts or are unsure.
- The leader and staff will always seek advice if they need to share information particularly if they wish to do so without consent to disclose.

4. **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. When you are sharing or requesting personal information from someone, be certain of the basis upon which you are doing so. Where you have consent, be mindful that an individual might not expect information to be shared.

- We base decisions to share information without consent on judgements about the facts of the case and whether there is a legal obligation.
- Our guidelines for consent are part of this procedure.
- The leader and Board are conversant with this and are able to advise staff accordingly.

5. **Consider safety and well-being:** Base your information sharing decisions on considerations of the safety and well-being of the individual and others who may be affected by their actions.

In our setting we:

- record concerns and discuss these with our designated person and/or designated officer from the management team for child protection matters ( our Leader and the Chair of the Board of Trustees;
- record decisions made and the reasons why information will be shared and to whom; and
- follow the procedures for reporting concerns and record keeping as set out in our Safeguarding Children, Young People and Vulnerable Adults Policy

6. **Necessary, proportionate, relevant, adequate, accurate, timely and secure:** Ensure that the information you share is necessary for the purpose for which you are sharing it, is shared only with those individuals who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.

7. **Keep a record of your decision and the reasons for it** - whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

- Where information is shared, we record the reasons for doing so in the child's file; where it is decided that information is not to be shared that is recorded too.

## Consent

When parents choose our setting for their child, they will share information about themselves and their families. This information is regarded as confidential. Parents have a right to be informed that we will seek their consent to share information in most cases:

When we seek consent we will be absolutely clear about:

- What information we might share and
- How we will share it/ how the data will be used

- Who we will share it with
- Parents rights in relation to data and how to withdraw consent.

We will also be clear about the kind of circumstances when we may not seek their consent, or may override their refusal to give consent. we inform them as follows:

- Our policies and procedures set out our responsibility regarding gaining consent to share information and when it may not be sought or overridden.
- Our terms and condition link to these, which form part of our agreement with parent.
- We may cover this verbally when the child starts and will include this in our registration process.
- Parents sign our Registration Form at registration to confirm that they understand this.

We ask parents to give written consent to share information about any additional needs their child may have, or to pass on child development summaries to the next provider/school.

- We give parents copies of the forms they sign on request.
- We consider the following questions when we assess the need to share:
  - Is there a legitimate purpose to us sharing the information?
  - Does the information enable the person to be identified?
  - Is the information confidential?
  - If the information is confidential, do we have consent to share?
  - Is there a statutory duty or court order requiring me to share the information?
  - If consent is refused, or there are good reasons for us not to seek consent, is there sufficient public interest for us to share information?
  - If the decision is to share, are we sharing the right information in the right way?
  - Have we properly recorded our decision?
- Consent must be properly informed and freely given 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 as detailed in the Privacy Notice.
- Consent can be withdrawn at any time and our Privacy Notice explains rights in relation to this.

#### *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 we will consider this carefully. The Leader and the Board should be informed as soon as possible if there is a disagreement or dispute between parents about consent
- Where the child is looked after, we may also need to consult the Local Authority, as 'corporate parent' before information is shared.

All the undertakings above are subject to our paramount commitment, which is to the safety and well-being of the child. Please also see our Safeguarding Children, Young People and Vulnerable Adults Policy.

## Transfer of records to school

### Context

We recognise that children sometimes move to another early years setting before they go on to school, although many will leave our setting to enter a nursery or reception class.

We prepare children for these transitions and involve parents and the receiving setting or school in this process. We prepare records about a child's development and learning in the Early Years Foundation Stage in our setting; in order to enable smooth transitions, we share appropriate information with the receiving setting or school at transfer. We will talk to parents about this and usually they are content to give their consent for this process.

Confidential records are shared where there have been child protection concerns according to the process required by our Local Safeguarding Children Board.

(<http://northumberlandlscb.proceduresonline.com/chapters/contents.html>).

### Transfer of records procedures

*Transfer of development records for a child moving to another early years setting or school*

- Using the *Early Years Outcomes* (DfE 2013) guidance and our assessment of children's development and learning, the key person will prepare a summary of achievements in the seven areas of learning and development.
- The record refers to:
  - any additional language spoken by the child and his or her progress in both languages;
  - any additional needs that have been identified or addressed by our setting;
  - any special needs or disability, whether a EHA was raised in respect of special needs or disability, whether there is an Education, Health and Care Plan, and the name of the lead professional.
- The record contains a summary by the key person and a summary of the parent's view of the child.
- The document may be accompanied by other evidence, such as photos or drawings that the child has made.
- When a child transfers to a school, most local authorities provide an assessment summary format or a transition record, which we will follow as applicable.
- If there have been any welfare or protection concerns, we note this appropriately within the transition record.

*Transfer of confidential information*

- The receiving school or setting will need to have a record of any safeguarding or child protection concerns that were in our setting and what was done about them.

- We will make a summary of the concerns to send to the receiving setting or school, along with the date of the last professional meeting or case conference. Some Local Safeguarding Children Boards will stipulate the forms to be used and provide these for us to use.
- Where an EHA has been raised in respect of any welfare concerns, we will pass the name and contact details of the lead professional on to the receiving setting or school.
- Where there has been a s47 investigation regarding a child protection concern, we will pass the name and contact details of the child's social worker on to the receiving setting or school - regardless of the outcome of the investigation.
- We post or take the information to the school or setting, ensuring it is addressed to the setting or school's designated person for child protection and marked as 'confidential'.
- We do not pass any other documentation from the child's personal file to the receiving setting or school.

### **Legal framework**

- *General Data Protection Regulations (GDPR) (2018)*
- *Freedom of Information Act (2000)*
- *Human Rights Act (1998)*
- *Children Act (1989)*
- *Human Rights Act 1998*

### **Further guidance**

- *What to do if you're worried a child is being abused: Advice for practitioners (HM Government 2015)*
- *Information sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (HM Government 2015)*

### **Legal framework**

- *General Data Protection Regulations (GDPR) (2018)*
- *Human Rights Act (1998)*

### **Further guidance**

- *Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (HM Government 2015)*
- *What to do if you're worried a child is being abused: Advice for practitioners (HM Government 2015)*
- *Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children (HM Government 2015)*

### Legal framework

- List here the relevant Acts of Parliament that form the foundation of the legal requirements for this policy or procedure.

### Further guidance

- List here any Government documents that provide guidance on abiding by the relevant legal framework.

