

Confidentiality and Data Policy

Please take time to read the pre-school policies and let the Pre-school Leader or Chair know if you have any questions.

The policies are also available to read on our website:
www.streatleyhillpreschool.org.uk

Statement of intent

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 recognise that parents 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.

Aim

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 systems in place that meet legal requirements, and the means we use to store and share information takes place within the framework of the Data Protection Act (1998) and the Human Rights Act (1998).

Our Confidentiality and Data Policy is separated into 3 key areas:

1. Children's record keeping
2. Confidentiality and parent/ carer access to records
3. Information sharing

The pre-school is committed to the safety and well-being of the child. Please also see our Safeguarding Policy.

1. Children's record keeping

Methods

If a child attends more than one setting:

- We establish a regular two-way flow of appropriate information with parents and other providers.
- Where appropriate, we will incorporate comments from other providers, as well as parents and/or carers into the child's records.

We keep two kinds of records on children attending our setting:

Developmental records

- These include observations of children in the setting and include photographs, samples of their work and summary developmental reports.
- These are usually kept in the main building of the pre-school in a folder in the child's named drawer and can be accessed, and contributed to, by our staff, the child and the child's parents.
- When a child leaves our setting at the end of the academic year in which they reached the age of 4 years old, we send their developmental record folder to the school at which they are registered to attend. Otherwise, upon leaving our setting, we hand the developmental record folder to the child's parents or carers, where appropriate.

Personal records

These may include the following (as applicable):

- Personal details – including the child's registration form and any consent forms.
- Contractual matters – including a copy of the signed parent contract, the child's days and times of attendance, a record of the child's fees, any fee reminders or records of disputes about fees.
- Child's development, health and well-being – including a summary of the child's EYFS profile report, a record of discussions about every day matters about the child's development health and well-being with the parent.
- Early Support – including any additional focussed intervention provided by our setting (e.g. support for behaviour, language or development that needs an Individual Education Plan) and records of any meetings held.
- Welfare and child protection concerns – including records of all welfare and protection concerns, and our resulting action, meetings and telephone conversations about the child, a Statement of Special Educational Need and any information regarding a Looked After Child.
- Correspondence and Reports – including a copy of the child's 2 Year Old Progress Check (as applicable), all letters and emails to and from other agencies and any confidential reports from other agencies.

Storing personal records

- These confidential records are stored in a lockable storage unit in our office, which is always locked when not in use.
- We read any correspondence in relation to a child, note any actions and file it immediately.
- We ensure that access to children's files is restricted to those authorised to see them and make entries in them, this being our manager, deputy or designated person for child protection, the child's key person, or other staff as authorised by our manager.

- We may be required to hand children's personal files to Ofsted as part of an inspection or investigation process; or to local authority staff conducting a S11 audit, as long as authorisation is seen. We ensure that children's personal files are not handed over to anyone else to look at.
- Parents have access, in accordance with Section 2 of this policy, to the files and records of their own children, but do not have access to information about any other child.
- Our staff will not discuss personal information given by parents with other members of staff, except where it affects planning for the child's needs. Our staff induction programme includes an awareness of the importance of confidentiality in the role of the key person.
- We retain children's records for ten years after they have left the setting; except records that relate to an accident or child protection matter, which are kept until a child reaches the age of 21 years or 24 years respectively. These are kept in a secure place.

Archiving personal records

- When a child leaves our setting, we remove all paper documents from the child's personal file and place them in a robust envelope, with the child's name and date of birth on the front and the date they left.
- We seal this and place it in an archive box, stored in a safe place (i.e. a locked cabinet) for ten years. After ten years it is destroyed.
- Where there were s.47 child protection investigations, we mark the envelope with a star and archive it for 25 years.
- We store financial information according to our finance procedures.

Other records

- We keep a daily record of the names of the children we are caring for, their hours of attendance and the names of their key person.

Legal framework

- Data Protection Act (1998)
- Human Rights Act (1998)

Further guidance

- Information Sharing: Guidance for Practitioners and Managers (DCSF 2008)

2. Confidentiality and parent/ carer access to records

Methods

Confidentiality

- 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 Section 3 of this policy.
- We always check whether parents regard the information they share with us to be confidential or not.
- Some parents may share information about themselves with other parents as well as with our staff; we cannot be held responsible if information is shared by those parents whom the person has 'confided' in.
- We inform parents when we need to record confidential information beyond the general personal information we keep (see Section 1 of this 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 Section 1 of this policy).
- Most information is kept in a 'paper-based' file. However, our 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. We do not keep electronic records on children, other than the register and financial data.
- Where it is helpful to keep an electronic copy, we download it onto a disc, labelled with the child's name and kept securely in the child's file. No documents are kept on the hard drive.
- Our staff discuss the general progress and well being of the children 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 staff 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.
- Where third parties share information about an individual with us; our the Lead Teacher and staff check if it is confidential, both in terms of the party sharing the information and of the person whom the information concerns.

Parent/ carer access to records

Parents/ carers may request access to any confidential records we hold relating to 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 in relation to 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 Pre-school Leader.
- 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 40 working days for the file to be made ready.
- A reasonable fee to cover administrative costs may be charged to the parent.
- Our manager may seek legal advice before sharing a file.
- Our manager goes through the file 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 our manager 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 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 our manager takes a photocopy of the complete file. On the copy of the file, our manager 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 legal advisers 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 informs the parent that the file is now ready and invites him/ her to make an appointment to view it.

- Our Lead Teacher meets 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 accurate. 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 Safeguarding Policy.

Legal framework

- Data Protection Act (1998)
- Human Rights Act (1998)

3. Information sharing

Our obligations

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.

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.

Methods

1. Our procedure is based on the seven golden rules for information sharing as set out in *Information Sharing: Guidance for Practitioners and Managers* (DCSF 2008). *Remember that the Data Protection Act is not a barrier to sharing information but provides a framework to ensure that personal information about living persons is shared appropriately.*

Our policy and procedures on Information Sharing provide guidance to appropriate sharing of information both within the setting, as well as with external agencies.

2. *Be open and honest with the person (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 agreement, unless it is unsafe or inappropriate to do so.*

In our setting we ensure parents:

- receive information about our Information Sharing policies and procedures (contained in the Confidentiality and Data Policy) when starting their child in the setting and that they sign our Registration Form to say that they understand the circumstances in which information may be shared without their consent;
- have information about our Safeguarding Policy; and
- 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 if you are in any doubt, without disclosing the identity of the person where possible.*
 - Our staff discuss concerns about a child routinely in supervision and any actions are recorded in the child's file.
 - Our Safeguarding 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 for advice where they have doubts or are unsure.
 - Our staff will seek advice if they need to share information without consent to disclose.
4. *Share with 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, that lack of consent can be overridden in the public interest. You will need to base your judgement on the facts of the case.*
 - We base decisions to share information without consent on judgements about the facts of the case and whether it is 'in the public interest'.
 - Our guidelines for consent are part of this procedure.
 - Our manager is conversant with this and she is 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 person and others who may be affected by their actions.*

In our setting we:

- record concerns and discuss these with our designated person for child protection matters;
 - 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 Policy.
6. *Necessary, proportionate, relevant, 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 people who need to have it, is accurate and up-to-date, is shared in a timely fashion, and is shared securely.*

Our Safeguarding Policy and Section 1 of this policy set out how and where information should be recorded and what information should be shared with another agency when making a referral.

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 see their consent to share information in most cases, as well as the kinds 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.
- 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.
- We consider the following questions when we need to share:
 - Is there 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 us 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 *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.
- Consent may be *explicit*, verbally but preferably in writing, or *implicit*, implied if the context is such that sharing information is an intrinsic part of our service or it has been explained and agreed at the outset.
- We provide our Confidentiality and Data Policy to parents.

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.

- 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 Policy.

Legal framework

- Data Protection Act (1998)
- Human Rights Act (1998)

Further guidance

Information Sharing: Guidance for Practitioners and Managers (DCSF 2008)

This policy was adopted at a meeting of Streatley Hill Pre-school Committee on:	20 th March 2012
This policy was last reviewed on:	15 December 2017
Date of next review:	Prior to May 2018 (DBS Change)
Signed on behalf of the Committee by:	Bob Kapp
Role of Signatory:	Chair