

Record keeping

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Confidentiality and client access to records policy

Policy statement

'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)

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

- 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.
- 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.
- 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 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 (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.
- We keep all records securely (see our Children's Records Policy and Privacy Notice).
- Information is kept in a manual file, or electronically. Our staff may also 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.

Agreed by the committee of Longleaze Pre-school and Nursery at the AGM dated December 2021

Signed by the Chairperson on behalf of the Committee

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- Our 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 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; 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 records procedures

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 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.
- A fee may be charged for repeated requests, or where a request requires excessive administration to fulfil.
- Our manager informs the Chair and legal advice may be sought before sharing a file/ the setting may seek legal advice before sharing a file.
- Our manager goes through the file with the Chair 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

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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 the chair 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 informs the parent that the file is now ready and invite[s] him/ her to make an appointment to view it.
- Our manager and the Chair 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.

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- 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)

Further guidance

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

Chronology Procedure

As described in our 'Safeguarding Children and child protection' policy Longleaze Pre-School & Nursery considers it the duty of managers, committee members, staff and volunteers to protect the children who they come into contact with from neglect and abuse.

To help us do this we use a Chronology form to record information, concerns and evidence regarding a child's well-being.

Each child has a Chronology form

Information is recorded on a chronology form where

- There are signs of neglect e.g. consistently dirty/inappropriate clothing, consistently hungry
- There are medical concerns
- A child discloses relevant information
- Relevant information is received from parents/carers
- There are inappropriate bruising or marks on child
- There are inappropriate/changes in the child's behaviour and/or language
- Relevant information is received from an outside agency
- Relevant information is received from a third party
- Relevant observations are made from outside the setting
- Other relevant information

A **Correspondence form** will be completed for a child when information relevant to that child is shared with the preschool through a meeting, conversation, telephone call, letter or email.

Pre-existing Injuries Form

Records scrapes, bruises and/or marks children come into the setting with. These are reviewed weekly and information then goes onto a chronology form for monitoring.

Child welfare concern record

To be completed when there is a welfare concern about a child.

At every staff meeting all relevant evidence from;

- Chronology forms
- Correspondence forms
- Child pre-existing injuries / marks record;
- Child welfare concern record is shared, discussed and actioned as appropriate.

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.

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Children's records policy

We have record keeping systems in place that meet legal requirements; the means 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).

This policy and procedure should be read alongside our Privacy Notice, Confidentiality and Client Access to Records Policy and our Information Sharing Policy.

Procedure

If a child attends another 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 the setting:

Developmental records

- These include observations of children in the setting, photographs, video clips and samples of their work and summary developmental reports.
- These are usually kept in each building and can be accessed, and contributed to, by the staff, the child and the child's parents.

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 only of the child's EYFS profile report, a record of discussions about every day matters about the child's development health and well-bring 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 SEN action 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, an Education, Health and Care Plan 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.
- These confidential records are stored in a lockable file or cabinet, which is always locked when not in use and which our manager keeps secure in the office.
- 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, deputies or designated person for child protection, the child's key person, or other staff as authorised by our manager.

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- 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 our Privacy Notice, Confidentiality and Client Access to Records 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 three 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 children's files

- If data is kept electronically it is encrypted and stored on USB stick and placed in the safe.
- 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.
- Where there are 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.
- Students on Pre-school Learning Alliance or other recognised qualifications and training, when they are observing in the setting, are advised of our Confidentiality and Client Access to Records Policy and are required to respect it.

Transfer of records to school policy

Policy statement

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.

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

The procedure guides this process and determines what information we can and cannot share with a receiving school or setting. Prior to transferring information, we will establish the lawful basis for doing so (see our Privacy notice).

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 CAF 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 worker 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, this information will also be appropriately shared with the relevant parties.

Transfer of confidential information

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

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- 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 Board will stipulate the forms to be used and provide these for us to use.
- Where an ESA 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 an 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 a child 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)

The settings records policy

Policy statement

We keep records and documentation for the purpose of maintaining our charity. These include:

- Records pertaining to our registration.
- Landlord/lease documents and other contractual documentation pertaining to amenities, services and goods.
- Financial records pertaining to income and expenditure.
- Risk assessments.
- Employment records of our staff including their name, home address and telephone number.
- Names, addresses and telephone numbers of anyone else who is regularly in unsupervised contact with the children.

We consider our records as confidential based on the sensitivity of information, such as with employment records. These confidential records are maintained with regard to the framework of the General Data Protection Regulations (2018), further details are given in our Privacy Notice and the Human Rights Act (1998).

This policy and procedure should be read alongside our Privacy Notice, Confidentiality and Client Access to Records Policy and Information Sharing Policy.

Procedures

- All records are the responsibility of our management team who ensure they are kept securely.
- All our records are kept in an orderly way in files and filing is kept up-to-date.
- Our financial records are kept up-to-date for audit purposes.
- We maintain health and safety records; these include risk assessments, details of checks or inspections and guidance etc.
- Our Ofsted registration certificate is displayed.
- Our Public Liability insurance certificate is displayed.
- All our employment and staff records are kept securely and confidentially.

We notify Ofsted of any:

- change in the address of our premises;
- change to our premises which may affect the space available to us or the quality of childcare we provide;
- change to the name and address of our registered provider, or the provider's contact information;
- change to the person managing our provision;

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- significant event which is likely to affect our suitability to look after children; or
- other event as detailed in the *Statutory Framework for the Early Years Foundation Stage* (DfE 2017).

Legal Framework

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

Information sharing policy

'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)

Policy statement

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.

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 given to parents at the point of registration. 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.

The responsibility for decision-making should not rely solely on an individual, but should have the back-up of the management team. The management team provide 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.

The three critical criteria are:

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- 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.

Procedures

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. We also follow the guidance on information sharing from the Local Safeguarding Children Board.

1. *Remember that the General Data Protection Regulations 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.*
 - 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 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 I have a legal obligation to do so. A Privacy Notice is given to parents at the point of registration to explain this further.*

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 to say that they understand 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;
 - Have information about Our Safeguarding Children and Child Protection 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 from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.*
 - Our staff discuss concerns about a child routinely in supervision and any actions are recorded in the child's file.
 - Our manager routinely seeks advice and support from the chair and Early Years Team about possible significant harm.
 - Our Safeguarding Children and Child Protection Policy sets out the duty of all members of our staff to refer concerns to our manager or deputy, as designated

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person, who will contact children's social care for advice where they have doubts or are unsure.

- Our managers seek advice if they need to share information 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.
- Our manager is conversant with this and he is/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 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;
- 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 and Child Protection 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.*

- Our Safeguarding Children and Child Protection Policy and Children's Records 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.

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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, 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 (if appropriate).
- 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 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 freely given and *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 as detailed in the Privacy Notice.
 - 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.
 - Consent can be withdrawn at any time.
 - We explain our Information Sharing 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 Children and Child Protection Policy.

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)