

Information Sharing

Information sharing is essential for effective safeguarding and promoting the welfare of children and young people.

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. Information sharing helps to ensure that an individual receives the right services at the right time and prevents a need from becoming more acute and difficult to meet.

DSLs will be guided by the the Department for Education (DfE) Guidance Information sharing duty - draft statutory guidance.

Policy Statement

We recognise that parents/carers have a right to know that information they share will be regarded as confidential as well as be informed about the circumstances, and reasons, when we are obliged to share information.

We record and share information about children and their families (data subjects) in line with the seven principles of the General Data Protection Regulations which are further explained in our Privacy Notice that is on our website, or a paper copy is available to read in the setting in our Policies folder. The seven principles state that personal data must be:

1. **Lawfulness, fairness and transparency** - Processed lawfully, fairly and in a transparent manner in relation to individuals.
2. **Purpose limitation** - Collected for specified, explicit and legitimate purposes and not further processed for other purposes incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes.
3. **Data minimisation** - Adequate, relevant and limited to what is necessary in relation to the purposes for which data is processed.
4. **Accuracy** - Accurate and where necessary, kept up to date.
5. **Storage limitation** - 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. **Integrity and confidentiality (security)** - 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.
7. **Accountability** - The controller shall be responsible for, and be able to demonstrate compliance.

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 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 decision should never be made as an individual, but with the back-up of the committee. The committee 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:

- 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 at risk of suffering, significant harm.
- To *prevent* significant harm arising to children and young people or serious harm to 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 information sharing as set out in *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 Authority.

1. Remember that the General Data Protection Regulations (GDPR), Data Protection Act 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 persons is shared appropriately.
 - Our policy and procedures on information sharing provide guidance to appropriate sharing of information with external agencies.
2. Be open and honest with the individual (and/or their family where appropriate) from the outset about why, how, and when information will, or could, be shared about them 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 available on our website and as a paper copy in our Policies folder for parents/carers to view. In our playgroup we ensure that parents/carers:
 - have access to information about our Information Sharing policy and our Privacy Notice before starting their child in the playgroup, and they sign the relevant box on Admission form to say that they *understand* circumstances when information may be shared without their consent. This will only be when it is a matter of safeguarding a child or vulnerable adult. This is on our Admission form.
 - have access to information about our Safeguarding Children and Child Protection policy.
 - have access to information about the 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 Preschool Leader routinely seeks advice and support from their line manager about possible significant harm.
 - Our Safeguarding & Child Protection Policy sets out the duty of all members of staff to refer concerns to our Preschool

- Leader, Deputy or DSL, who will contact Children's Social Care for advice where they have doubts or are unsure.
- Our Preschool Leader seeks advice if they need to share information without consent to disclose.
- 4. Share with informed consent where appropriate, respect the wishes of children and parents/carers not to consent to share confidential information. Under the GDPR and Data Protection Act 2018 you may still share information without consent if, in your judgement, there is a lawful basis 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 Preschool Leader is conversant with this and 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 playgroup we:
 - record concerns and discuss these with the playgroup's DSL and/or Safeguarding Liaison from the Committee;
 - record decisions made and the reasons why information will be shared and to whom; and
 - follow the procedures for reporting concerns and record keeping.
- 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 Child Protection procedure and Record Keeping procedure 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

Parents/carers 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 our Privacy notice.

Parents/carers have a right to be informed that their consent to share information will be sought in most cases, as well as the kinds of circumstances when their consent may not be sought, or their refusal to give consent may be overridden, and reasons for the setting being under obligation to share information. We do this 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.
- We may cover this verbally when the child starts or include this in our prospectus.
- Parents/carers sign the relevant section(s) on the Admission form to say they understand this.
- Parents/carers are asked 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.
- Copies are available on request to parents/carers of the forms they sign.

Where there are concerns about whether or not to gain parental consent before sharing information, e.g. when making a Channel/Prevent referral the Preschool Leader must inform their line manager for clarification before speaking to parents/carers.

We consider the following questions when we assess the need to share:

- Is there legitimate purpose to sharing the information?
- Does the information enable the person to be identified?
- Is the information confidential?
- If the information is confidential, do you have consent to share?
- Is there a statutory duty or court order to share information?
- If consent is refused, or there are good reasons not to seek consent, is there sufficient public interest to share information?
- If the decision is to share, are you sharing the right information in the right way?
- Have you properly recorded your 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 may be withdrawn at any time.
- Our Information Sharing Policy is available to parents/carers, and will be explained further as requested.

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. We 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/carers who confide that they are working while claiming should be informed of this and should be encouraged to check their entitlements to benefits, as it may be beneficial to them to declare earnings and not put themselves at risk of prosecution.

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 educators 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.
- We will contact Children’s Social Care first if we believe that notifying parents/carers about a safeguarding concern may place the child or another person at immediate risk of harm or prejudice the prevention or detection of crime. Further guidance on this can be found in the ‘Cambridgeshire Threshold Document: Continuum of Help and Support’.
- 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.

Separated Parents

- Consent to share need only be sought from one parent/carers. Where parents/carers are separated, this would normally be the parent/carers 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 LA, as ‘corporate parent’ before information is shared.

All the undertakings above are subject to the paramount commitment of the playgroup, which is to the safety and well-being of the child. Please also see our Safeguarding Children and Child Protection policy.

Age For Giving Consent

- A child may have the capacity to understand why information is being shared and the implications. For most children under the age of eight years in a nursery or out of school childcare context, consent to share is sought from the parent/carers, or from a person who has parental responsibility.
- Young persons (16-19 years) are capable of informed consent. Some children from age 13 onwards may have capacity to consent in some situations. Where they are deemed not to have capacity, then someone with parental responsibility must consent. If the child is capable and gives consent, this may override the parent’s wish not to give consent.
- Adults at risk due to safeguarding concerns must be deemed capable of giving or withholding consent to share information about them. In this case ‘mental capacity’ is defined in terms of the Mental Capacity Act 2005 Code of Practice (Office of the Public Guardian 2007). It is rare that this will apply in the context of the setting.

Legal Framework & Further Guidance

- General Data Protection Regulations (GDPR) 2018
- Human Rights Act 1998
- Working Together to Safeguard Children (DfE 2026)
- Information sharing duty - draft statutory guidance (June 26)
https://consult.education.gov.uk/mais-strategy-policy-and-programme-unit/statutory-guidance-for-information-sharing-duty/supporting_documents/information-sharing-duty-draft-statutory-guidance-for-safeguarding-organisations-and-their-practitionerspdf
- 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)
- Mental Capacity Act 2005 Code of Practice (Office of the Public Guardian 2007)

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Signed:

Name: Caroline Wilson

Position: Chair