



## **Confidentiality and 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)*

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.
- We always check whether parents regard the information they share with us to be confidential or not if we are unsure.
- 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 - 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 locked cupboards or electronically on password protected devices.
- Our staff discuss children's general progress and wellbeing together in meetings, but more sensitive information is restricted to our manager/deputy 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.

### **Procedures**

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 our setting:

## **Developmental records**

- These include observations of children in the setting, photographs, video clips and samples of their work and summary developmental reports.
- We use Tapestry to record children's learning and development. Access to Tapestry is password protected and restricted to use within the setting only by practitioners.
- Parents/Carers are set up with their own Tapestry Account when their child starts at our setting. This gives them access to their child's development records and enables them to view and comment on observations made by staff and also to contribute with their own observations.

## **Personal records**

These may include the following (as applicable):

- Personal details – including the child's registration form and any consent forms.
- Contractual matters
- Child's development, health and well-being – including a summary of the child's EYFS progress, a record of discussions about everyday matters about the child's development health and well-being with the parent.
- Early Support – including any additional focused intervention provided by Barnett Wood Preschool (e.g. support for behaviour, language or development that needs a 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 cupboard in a lockable 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 the manager, deputy or designated person for child protection, the child's key person, or other staff as authorised by the manager.
- We may be required to hand children's personal files to Ofsted as part of an inspection or investigation process as long as authorisation is seen. We ensure that children's personal files are not handed over to anyone else to look at and that all information stays onsite.
- Parents have access, in accordance with our Privacy Notice, 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 up to five 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.

## **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.

## **Access to records procedure**

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 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 may inform the Privacy Officer and legal advice may be sought before sharing a file.
- Our manager goes through the file to ensure 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 the manager takes a photocopy of the complete file. On the copy of the file, the 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 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.
- The manager informs the parent that the file is now ready and invites him/her to make an appointment to view it.
- The manager 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 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.
- 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 Barnett Wood Preschool, which is to the safety and well-being of the child. Please see also our Safeguarding policy.

### **Provider records**

We keep records and documentation for the purpose of maintaining our setting. 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.

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).

### **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 person managing our provision; 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)

### **Further guidance**

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

**Written August 2020**

**Signed on behalf of the preschool**

**Director** \_\_\_\_\_ **Date** \_\_\_\_\_