

### **Definition**

'Confidential information is information that is not normally in the public domain or readily available from another source, it should have a degree of sensitivity and value and be subject to a duty of confidence. A duty of confidence arises when one person provides information to another in circumstances where it is reasonable to expect that the information will be held in confidence.' (Information Sharing: Guidance for Practitioners and Managers (DCSF 2008))

### **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 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 (2016) and the Human Rights Act (1998).

### **Aims**

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 regard to the Common Law Duty of Confidentiality and only share information with other professionals or agencies on a 'need to know' basis, with consent from parents, or without their consent in specified circumstances to do with safeguarding children.
- We meet the requirements of the Human Rights Act 1998 with regard to protecting the individual's rights to a private and family life, home and correspondence. Our only

justification to interfering with this right is where we believe that a child may be at risk of significant harm or to prevent a crime or disorder.

This policy and procedure is taken in conjunction with the Children's Records and Information Sharing policy.

### EYFS key themes and commitments

A Unique Child:	1.3 Keeping safe
Positive Relationships:	2.1 Respecting each other
	2.2 Parents as partners
Enabling Environments:	3.4 The wider context

### 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 Record Keeping and 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 Record Keeping and Information Sharing 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 Record Keeping and Information Sharing 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 held on the PC, which is password protected.
- Our staff discuss children's general progress and well-being together in meetings, but more sensitive information is restricted to our management team and the child's key person, and is shared with other staff on a need to know basis.
- We do not discuss children 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 will 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 held on their child and family following the procedure below:

- 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.
- The setting manager informs the chairperson of the management committee and sends a written acknowledgement.
- The setting commits to providing access within 14 days, although this may be extended.

- The setting's manager and chairperson of the management committee prepare the file for viewing.
- All third parties are written to, stating that a request for disclosure has been received and asking for their permission to disclose to the person requesting it. Copies of these letters are retained on file.
- 'Third parties' include all family members who may be referred to in the records.
- It also includes workers from any other agency, including social services, the health authority, etc. It is usual for agencies to refuse consent to disclose, preferring the individual to go directly to them.
- When all the consents/refusals to disclose have been received these are attached to the copy of the request letter.
- A photocopy of the complete file is taken.
- The setting manager and chairperson of the management committee go through the file and remove any information which a third party has refused consent to disclose. This is best done with a thick black marker, to score through every reference to the third party and information they have added to the file.
- 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'.
- The 'clean copy' is photocopied for the parents who are then invited in to discuss the contents. The file should never be given straight over, but should be gone through by the manager, so that it can be explained.
- Legal advice may be sought before sharing a file, especially where the parent has possible grounds for litigation against the setting or another (third party) agency.
- 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.

All the undertakings above are subject to the paramount commitment of the setting, which is to the safety and well-being of the child. This policy is taken in conjunction with the 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)