



Children's records and data protection

Principles of data protection: lawful processing of data

Personal data shall be:

- a) *processed lawfully, fairly and in a transparent manner in relation to the data subject*
- b) *collected for specified, explicit and legitimate purposes and not further processed in a manner that is not compatible for these purposes*
- c) *adequate, relevant and necessary in relation to the purposes for which they are processed*
- d) *accurate, and where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purpose for which they are processed, are erased or rectified without delay*
- e) *kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed*
- f) *processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ("integrity and confidentiality") Article 5 of the General Data Protection Regulations (2018)*

Educators should process data, record and share information in line with the principles above and the 7 Golden Rules to Sharing Information See Appendix A. This policy should also be read in conjunction with our policies on Record Keeping and Confidentiality, Recording and Sharing information

General safeguarding recording principles

- It is vital that all relevant interactions linked to safeguarding children's and individual's welfare are accurately recorded.
- All recordings should be made as soon as possible after the event.
- Recording should be to a good standard and clear enough to enable someone other than the person who wrote it, to fully understand what is being described.
- Recording can potentially be viewed by a parent/carer or Ofsted inspector, by the successors of the educators who record, and may be used in a family Court as relevant evidence to decide whether a child should remain with their biological parents or be removed to live somewhere else. Recording needs to be fair and accurate, non-judgemental in tone, descriptive, relevant, and should clearly show what action has been taken to safeguard a child and reflect decision-making relating to safeguarding.
- Recording should be complete, it should show what the outcome has been, what happened to referrals, why decisions were made to share or not share information, and it should contain summaries and minutes of relevant multi-agency meetings and multi-agency communication.
- If injuries or other safeguarding concerns are being described the description must be clear and accurate and should give specific details of the injury observed and where it is located.

The principles of GDPR and effective safeguarding recording practice are upheld

- Recording is factual and non-judgemental.
- The procedure for retaining and archiving personal data and the retention schedule and subsequent destruction of data is adhered to.
- Parents/carers and children where appropriate are made aware of what will be recorded and in what circumstances information is shared, prior to their child starting at the setting. Parents/carers are issued with a Privacy notice and should give signed, informed consent to recording and information sharing prior to their child attending the setting.

If a parent/carer would not expect their information to be shared in any given situation, normally, they should be asked for consent prior to sharing.

- There are circumstances where information is shared without consent to safeguard children. These are detailed below, but in summary, information can be shared without consent if an educator is unable to gain consent, cannot reasonably be expected to gain consent, or gaining consent places a child at risk.
- Records can be accessed by and information may be shared with local authority professionals. If there are significant safeguarding or welfare concerns, information may also be shared with a family proceedings Court or the police. Educators are aware of information sharing processes and all families should give informed consent to the way the setting will use, store and share information.
- Recording should be completed as soon as possible and within 5 working days as a maximum for safeguarding recording timescales.
- If a child attends more than one setting, a two-way flow of information is established between the parents/carers, and other providers. Where appropriate, comments from others (as above) are incorporated into the child's records.

Children's personal files

- Appropriate files must be used. Which are made of robust card (not ring binders).
- These files will contain the following information:
 - personal details: registration form and consent forms.
 - contractual matters: copies of contract, days and times, record of fees, any fee reminders or records of disputes about fees.
 - SEND support requirements
 - additional focussed intervention provided by the setting e.g. support for behaviour, language or development that needs an Action Plan at setting level
 - records of any meetings held
 - welfare and safeguarding concerns: correspondence and reports: all letters and emails to and from other agencies and confidential reports from other agencies
- Children's personal files are kept in a filing cabinet, which is always locked when not in use.
- Correspondence in relation to a child is read, any actions noted, and filed immediately
- Children's developmental records are accessed via Tapestry an online journal which is accessed using a strong password for each individual key person. Only the Manager has administrative control.
- Access to children's personal files is restricted to those authorised to see them and make entries in them, this being the setting manager, deputy or designated person for child protection, the child's key person, or other staff as authorised by the setting manager.
- Children's personal files are not handed over to anyone else to look at.
- Children's files may be handed to Ofsted as part of an inspection or investigation; they may also be handed to local authority staff conducting a S11 audit as long as authorisation is seen.

Reviewed 26th July 2024

To be reviewed annually

Appendix A

The seven golden rules to sharing information

1. Remember that the General Data Protection Regulation (GDPR), Data Protection Act 2018 and human rights law are not barriers to justified information sharing, but provide a framework to ensure that personal information about living individuals is shared appropriately.
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 agreement, unless it is unsafe or inappropriate to do so.
3. Seek advice from other practitioners, or your information governance lead, if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
4. Where possible, share information with consent, and where possible, respect the wishes of those who do not consent to having their information shared. Under the GDPR and Data Protection Act 2018 you may 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 clear of the basis upon which you are doing so. Where you do not have consent, be mindful that an individual might not expect information to be shared.
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.
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 (see principles).
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.

Taken from: Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers (July 2018)