Confidentiality & Data Protection Policy

Overview

We understand that at times, the work of the setting and with children, families and staff will bring our staff into contact with confidential information. To ensure that all who use and work in the setting can do so in confidence, confidentiality will be respected in the following way:

Aims

• The setting will ensure that all information is stored and shared according to the regulations and guidance of the General Data Protection Regulation 2018.

• The setting will ensure that the staff team are aware of the implications of the GDPR 2018 in so far as it affects their roles and responsibilities within the setting.

• The setting will ensure there is a Privacy Notice for parents, staff and an Information Audit/Record of processing activity alongside this Confidentiality and Data Protection policy

• The setting will ensure it facilitates an open approach with the parents/carers with regard to its policies and procedures and the information that the setting holds on their child.

Compliance with the GDPR

• The setting will comply with the six principles of the GDPR which say that the data processing must be lawful and transparent; only used for the purpose for which it was originally requested (unless with further consent); limited to what is necessary, accurate and kept up to date; retained or deleted appropriately; processed with integrity and responsibly to avoid loss or damage, and to have accountability, by showing that the correct measures are in place to demonstrate how compliance is achieved

• The setting will appoint a ‘data controller’ and if required register with the Information Commissioner’s Office (ICO) who will be accountable

• In line with the EYFS, we will liaise with parents/carers to keep them updated about their child/ren’s well-being and progress. Parents / carers have rights to their own information as well as that of their children. The Parents’ Privacy notice will detail this and the ‘lawful basis’ for holding this data.

• In line with the EYFS and Employment law we will keep records on staff and volunteers to ensure suitability, good practice and well-being. Staff and volunteers have a right to their own information.

Procedure

• Prior, written permission and consent will be obtained to hold personal details on children, parents and employees and management.

• All personal records will be stored in a secure location. For paper records this means, within lockable storage. For computer or digital records this means that files will be pin/password protected/encrypted. These passwords will be regularly changed to improve security. Security measures will be implemented for any and all portable media equipment.

• The safety and welfare of the children will be paramount; any disclosures relating to issues of child protection will be discussed with the relevant agencies and our child protection policy will be implemented.

• Parents/carers will be made aware that as an early years education provider we have a duty to share/pass on child protection/safeguarding information to the next education provider.

• Any serious concerns / evidence relating to a child's personal welfare will be recorded and kept in a confidential file and will not be shared within the setting except with the necessary staff and the parents / carers. The exception to sharing information with the parents / carers is where doing so would put the child at significant risk of harm.

• All children’s records will be available to the parents / carers of that child, but they will not have access to any information about other children. This includes having separate accident and incident reports to respect the confidentiality of the other children. Relevant staff will have access to this information.

• Records and information will be made available to parents/carers/staff and volunteers upon request (‘Subject access request’), within a month, unless subject to an exemption. If for any reason a request is going to be refused, then this decision, and an explanation, will be communicated in writing within a month.

• Staff will not discuss individual children, other than for purposes of planning / reviewing or group management, with anyone other than the parents / carers of that child without their permission, unless required to do so by an Ofsted inspector.

• Personal information will not be released to external agencies without the prior permission of parents / carers. We will seek active consent to share information with health, education and inclusion professionals. The exception to this is where doing so would put the child at significant risk of harm.

• Parent/carer information may be shared with the HMRC and other providers of funded places.

• The management, staff, volunteers and any other individual associated with the running or management of the setting will respect confidentiality by:

- Not discussing confidential matters about children with other parents/carers.

- Not discussing confidential matters about parents/carers with children or other parents/carers.

- Not discussing individual children outside of the provision.

- Not discussing confidential information about staff members.

• Issues to do with the employment of staff, whether paid or unpaid, will remain confidential to those directly involved with making personnel decisions.

• Students, volunteers and management will be advised of our confidentiality and data protection policy and are required to respect and adhere to it.

• Staff failing to show due regard for confidentiality will be liable to disciplinary action under the provisions of the Disciplinary Procedure

Data breach

• We must report any data breach to the ICO if, for example, personal data was lost, destroyed, shared inappropriately, or if someone accessed information without permission. Parents have a right to complain to the ICO.

• If a data breach occurred the individuals involved would be informed and it would be addressed promptly. We would take steps to establish the severity and tell the ICO, if required. If it was decided not to report the breach this decision would need to be justified and recorded as an incident in the Log of Data Breaches and consider how we might ensure that the data breach could not occur again. We must investigate a data breach within 72 hours and failure to notify a breach may result in a fine.

Advice is available from the ICO Helpline 0303 123 1113

Children’s rights

• Children have the same rights as adults over their personal data and only children aged at least 13 or over are able provide their own consent in the UK. For children under this age we need to get consent from whoever holds parental responsibility for them. We must make reasonable efforts to verify that the person giving consent does, in fact, hold parental responsibility for the child. There is some information which we must hold by law in order to register a child, such as a child’s date of birth and parents’ contact details. There is also a statutory requirement to keep some record of your child’s learning progress. There is other information which we may ask for, which is based on consent and we should indicate that it is consent-based, so that you have the option to refuse or withdraw consent, for example you may not wish us to take photographs of your child.

Retention of records

• When a child has moved on from the setting we will hand over educational records (learning diary), and photographs to the parent/carers and delete any copies. Other records will be retained for a varying length of time depending on the reason for retaining those records. We have detailed the retention periods in the Privacy Notice to parents/carers and retention of records document for staff.

• If we resign the childcare registration we will keep records securely for as long as we are legally required, depending on the reason for retention.

• Paper documents will be shredded. Information on digital storage devices will be deleted when it is no longer required

• Staff records will be retained throughout employment and when an individual leaves some records will be handled in line with the retention of record document.

Complex Issues

Data Protection, Freedom of Information, Confidentiality and Information Sharing is a complex area and the setting will seek advice on complex issues on a case by case basis from:

• Data Protection https://ico.org.uk/

• Freedom of Information of information Act https://ico.org.uk/

• Bristol’s Information Sharing Protocol

https://www.bristol.gov.uk/data-protection-foi/information-sharing-agreements

• Guidance on the Transfer of a Child Protection Safeguarding File to another Education Setting https://bristolsafeguarding.org/media/1162/guidance-on-transfer-info-in-education.pdf

This policy will be regularly reviewed to ensure we remain compliant with GDPR.

SIGNED: LIZ TOMLINSON (MANAGER) DATE: Sept 2023

REVIEW DATE: Sept 2024

Legislation

General Data Protection Regulation 2018

Freedom of information Act 2000