



Testwood Baptist Church Pre-school

DATA PROTECTION POLICY

Principles of data protection: lawful processing of data

We record and share information about children and their families (data subjects) in line with the six principles of the General Data Protection Regulations (GDPR) (2018) which are further explained in our Privacy Notice.

The six principles state that personal data must be:

1. Processed fairly, lawfully and in a transparent manner in relation to the data subject.
2. Collected for specified, explicit and legitimate purposes and not further processed for other purposes incompatible with those.
3. Adequate, relevant and limited to what is necessary in relation to the purposes for which the data is processed.
4. Accurate and where necessary, kept up to date.
5. Kept in a form that permits identification of data subjects for no longer than is necessary for those purposes.
6. Processed in a way that ensures appropriate security of personal data including protection against accidental loss, destruction or damage, using appropriate technical or organisational measures.

Educators should process data, record and share information in line with the principles above.

During an outbreak of serious illness or disease (such as Covid-19) there may be the need to keep additional records as part of outbreak management. A record is kept of individual cases of children/families who are self-isolating due to symptoms as per usual record-keeping procedures. In all cases the principles of data protection are maintained.

Confidentiality – See Appendix A

The Pre-school's work with children and families will sometimes bring us into contact with confidential information.

Definition: 'Confidential information is information of some sensitivity, which is not already lawfully in the public domain or readily available from another public source, and which has been shared in a relationship where the person giving the information understood it would not be shared with others.'

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. There are record keeping systems in place that meet legal requirements; means of storing and sharing that information take place within the framework of the General Data Protection Regulations (2018) and the Human Rights Act (1998).

Record retention – See Appendix B

Records relating to both the children and staff in the pre-school should be kept for a certain period of time according to the guidelines set out by the Pre-School Learning Alliance. Retention periods are usually dictated by legal requirements, or in their absence, by industry norms or the needs of the business. Under *General Data Protection Regulation (GDPR)*. Where there are data protection issues owing to records containing personal data, paper records must be disposed of securely at the end of their life via confidential waste bins or cross-cut shredders.

Record keeping – See Appendix C

We have record keeping systems in place that meet legal requirements; the means we use to store and share that information takes place within the framework of the General Data Protection Regulations (GDPR) (2018) and the Human Rights Act (1998).

Privacy notice - See Appendix D

In accordance with GDPR 2018, we are committed to ensuring that any personal data we hold about you and your child is protected in accordance with data protection laws and used in line with your expectations. This privacy notice will explain what personal data we collect, why we collect it how we use it and how we protect it.

Information sharing – See Appendix E

'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. It could ensure that an individual receives the right services at the right time and prevent a need from becoming more acute and difficult to meet. At the other end of the spectrum it could be the difference between life and death.'

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

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

The responsibility for decision making should not rely solely on an individual but should have the support of the Management Team. The Management team will provide clear guidance, policies 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.

This Policy and Procedure relates to the Safeguarding and Welfare Requirement: Information and records section of the EYFS Statutory Framework.

Agreed by Pre-school Management Team:

Signed: Sandra Andrews

Date: 6th Jan 2025

Review Date: Autumn 2026

Signed: (Staff/Student/Volunteer)

Dated:

APPENDIX A

Confidentiality

To ensure that all those using and working in the Pre-school can do so with confidence, we will respect confidentiality in the following ways:

- 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.
- Staff will not discuss individual children with people other than the parents/carers of that child, other members of staff and the Management Team if required. Information shared with other agencies is done on a need to know basis.
- Our discussions with other professionals take place within a professional framework and not on an informal or ad-hoc basis.
- Information shared with other agencies is done in line with our Information Sharing Policy.
- Where third parties share information about an individual we check if it is confidential, both in terms of the party sharing the information and of the person concerned.
- We always check whether parents regard information they share with us to be confidential or not.
- Some parents may share information about themselves with other parents as well as with the setting, 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 groups is usually bound by a shared agreement that information is confidential to the group and not discussed outside of it. We are not responsible should that confidentiality be breached by participants.
- Our staff discuss children's general progress and well being together in meetings, but more sensitive information is restricted to the pre-school leaders and the child's key person and is shared with other staff on a need to know basis.
- We inform parents when we need to record confidential information beyond the general personal information we keep (see our Record Keeping 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, and 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 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.
- Issues to do with the employment of staff, whether paid or unpaid, will remain confidential to the Pre-school Manager and the Management Team.
- Any anxieties/evidence relating to a child's personal safety will be kept in a confidential file and will not be shared within the group except with the child's Key carer, the Pre-School Manager/Deputy and the named person as appropriate (see Safeguarding Policy).
- We keep all records securely in a locked filing cabinet in the office. Most information is kept in a manual file. However, our staff use a computer to type reports, or letters, where this is the case, it is password protected.
- Parents will have ready access to the files and records of their own children but will not have access to information about any other child.
- 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 record.
- All staff, students and volunteers will be advised of our Confidentiality Policy and required to respect it. A signed and dated copy of this policy will be kept on file to confirm they have read it.

APPENDIX B

Record Retention

Records will be archived using the following guidelines:

| Record Type | Retention Period | Status | Authority |
|--|--|----------------|---|
| <i>Children's Records</i> | | | |
| Children's records - including personal information, registers, medication records and accident record books pertaining to the children, parental permission forms and funding information, | 3 years after the child has left the setting or until the next Ofsted inspection | Requirement | Statutory Framework for the Early Years Foundation Stage (given legal force by Childcare Act 2006) Data Protection Act 2018 and GDPR 2018. |
| Child Protection Records (possibly including SEN records and healthcare plans) | Until the child reaches 25 years of age (may be stored at the Alliance's central archive after 3 years) if there may be legal action | Recommendation | Limitation Act 1980 Normal limitation rules (which mean that an individual can claim for negligently caused personal injury up to 3 years after, or deliberately caused personal injury up to 6 years after the event) are postponed until a child reaches 18 years of age |
| Safeguarding and welfare records (including copy of written summary transferred to schools) which resulted in a Child Protection or Child In Need referral being made to the local authority, or a child being subject to a CIN or child protection plan whilst attending the setting, or police referral. | Until the child reaches age 25 years, or for Looked After Children 75 years. | Requirement | Limitation Act 1980 |
| Safeguarding and welfare concerns about possible abuse or neglect which resulted in a CAF or other early help support services referral being made (including copy of written information transferred to schools, or police referral). | Six years from time referral made, or for Looked After Children 75 years. | Requirement | Limitation Act 1980 |
| Special Educational Needs records, including plans. | 25 years from the birth of the child. | Requirement | Education Act (1996) |
| Other records containing personal information of children/families such as photos, videos, website content, social media posts and emails | Retain records of photographic/video/audio-visual permissions by parents for 21 years and 6 months | Requirement | GDPR and Data Protection Act 2018 |

| Record Type | Retention Period | Status | Authority |
|--|--|-------------------------------|---|
| Staff Records | | | |
| Staff Personnel files and training records (including disciplinary records and working time records) | 6 years after employment ceases | Recommendation | Chartered Institute of Personnel and Development |
| Summary of service record including name, position held and dates of employment | 10 years from the end of employment | Recommendation | Chartered Institute of Personnel and Development |
| Reference information | 5 years from reference/end of employment | Recommendation | Chartered Institute of Personnel and Development |
| DBS check | Up to 6 months to allow for consideration and resolution of disputes or complaints. Maintain on employee files: Unique reference number, date of issue, type of disclosure, name and position and person who obtained it. | Requirement | Disclosure and Barring Service |
| Requirement | EYFS (given legal force by Childcare Act 2006) | | |
| Staff accident records (for organisations with 10 or more employees) | 3 years after the date the record was made | Requirement | Social Security (Claims and Payments) Regulations 1979 |
| Application forms and interview notes for unsuccessful candidates | Six months to 1 year | Recommendation | Chartered Institute of Personnel and Development |
| Financial Records | | | |
| Wage/salary records (including overtime, bonuses and expenses) | 6 years | Requirement | Taxes Management Act 1970 |
| Statutory Maternity Pay (SMP) records | 3 years after the end of the tax year to which they relate | Requirement | The Statutory Maternity Pay (General) Regulations 1986 (SI 1986/1960) as amended |
| Statutory Sick Pay (SSP) records | 3 years after the end of the tax year to which they relate 6 years after employment ceases | Requirement Recommendation | The Statutory Sick Pay (General) Regulations 1982 Chartered Institute of Personnel and Development |
| Income tax and National Insurance returns/records | At least 3 years after the end of the tax year to which they relate | Requirement | The Income Tax (Employments) Regulations 1993 (as amended) |
| Redundancy details, calculations of payments, refunds, notification to the Secretary of State | 6 years after employment ends | Recommendation | Chartered Institute of Personnel and Development |
| Parental leave records | 18 years from birth of child | Recommendation | Chartered Institute of Personnel and Development |
| National Minimum Wage records | 3 years after the end of the pay reference period following the one the records cover | Requirement | National Minimum Wage Act 1998 |

| Record Type | Retention Period | Status | Authority |
|---|---|----------------------------------|--|
| Pension scheme and member records | 6 years (except for records of opt-outs which must be kept for 4 years) | Requirement | The Pensions Regulator |
| | 12 years from the ending of any benefit payable under policy | Recommendation | Chartered Institute of Personnel and Development |
| Accounting records | 6 years for charities | Requirement | Charities Act 2011 section 131 |
| <i>Health and Safety</i> | | | |
| Assessments under Health and Safety Regulations and records of consultations with safety representatives and committees | Permanently | Recommendation | Chartered Institute of Personnel and Development |
| Accident/medical records as specified by the Control of Substances Hazardous to Health Regulations (COSHH) | 40 years from the date of the last entry | Requirement | The Control of Substances Hazardous to Health Regulations 2002 (COSHH) |
| Records of any reportable death, injury, disease or dangerous occurrence | 3 years after the date the record was made or if involving a child, until they reach the age of 21. | Requirement | The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) (as amended) |
| <i>Administration Records</i> | | | |
| Employers' liability insurance records | For as long as possible Permanently | Recommendation Recommendation | Health and Safety Executive Information and Records Management Society |
| Minutes/minute books | 6 years from the date of the meeting for Charitable Incorporated Organisations Permanently | Requirement Recommendation | The Charitable Incorporated Organisations (General) Regulations 2012 Chartered Institute of Personnel and Development |

APPENDIX C

Record Keeping

Provider Records

We keep records and documentation for the purposes of maintaining our business. These include:

- Records pertaining to our registration.
- 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, address and telephone number.
- Names, addresses and telephone numbers of anyone else who is regularly in unsupervised contact with the children.

Handling of Records

- All records are the responsibility of the Pre-school Manager, Deputy, Administrator and the Management Team who ensure they are kept securely.
- All our records are kept in an orderly way in files and files are 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.
- 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:

- Changes in the address of our premises.
- Change to our premises which may affect the space available to us or the quality of the childcare we provide.
- Change to our name address or contact information.
- Change to the person managing our provision.
- Significant event which is likely to affect our suitability to look after children.
- Other events as detailed in the *Statutory Framework for the Early Years Foundation Stage* (DfE 2017)

Children'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
- samples of their work
- summary development reports
- the child's online journal (Tapestry).

Apart from the Tapestry account, these are kept in the pre-school office and can be accessed and contributed to by the staff. Parents can also contribute on Tapestry.

Personal records

These may include the following:

- Personal details – including the child's registration and any consent forms
- Contractual matters – including signed admission terms and conditions, child's days and times of attendance, a record of the child's fees, any fee reminders or records of disputes about fees.
- Child's development, health and well-being – including a summary of the child's EYFS report and any discussions about the child's health and well-being with the parent
- Early Support – including any additional focussed intervention provided by the setting (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 all records of 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.
- We keep a daily register of the names of the children we are caring for, their hours of attendance and a list of their key person.

Processing of Records

- Confidential records are stored in a lockable filing cabinet in the office, which is always locked when not in use.
- We read any correspondence in relation to a child, note any actions and file 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 Pre-school Manager, the child's key person, the Administrator and other staff authorised by the Pre-school Manager.
- We may be required to hand children's personal files to Ofsted as part of an inspection or investigation process or to local authority staff conducting an S11 audit as long as authorisation is seen. We ensure that they are not given out to anyone else.
- Parents have access, in accordance with our Privacy Notice, Confidentiality and Information Sharing Policies, 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 includes an awareness of the importance of confidentiality.
- Students on placement are advised of our Data Protection Policy and are required to respect it.

Archiving and Retention

- We retain children's records for three years after they have left the setting, except records that relate to an accident or child protection matter, which are kept until the child reaches the age of 25 years. These are kept in a secure place.
- When a child leaves the setting we place all the relevant paper documents from the child's personal file and place them together in an archiving box which is stored in a safe place. After three years it is destroyed.
- If data is kept electronically it is archived and dealt with as above.
- Where there were s.47 child protection investigations, we mark the file with a star and archive it for 25 years.
- We store financial information according to our financial procedures.

APPENDIX D

Privacy Notice

What personal data we collect

We collect personal data about you and your child to provide care and learning that is tailored to meet your child's individual needs. We also collect information to verify your eligibility for free childcare as applicable.

- Personal details we collect about your child include:
Your child's name, date of birth, address, health and medical needs, developmental needs, and any special educational needs.
- Where applicable we will obtain child protection plans from social care and health care plans from health professionals.
- We will also ask for information on parental responsibility and any court orders pertaining to your child.
- Personal details we collect about you include:
Your name, home address, phone numbers, emergency contact details, religious beliefs (if given) and family details. This information will be collected from you directly in the registration and admissions form.
- If you apply for up to 30 hours free childcare, we will also collect:
Your national insurance number or unique taxpayer reference (UTR) if you're self-employed. We may also collect information regarding benefits and family credits that you receive.

Why we collect this information and the legal basis for handling your data

We use personal data about you and your child to provide childcare services and fulfil our obligations to you. This includes using your data to:

- Contact you in case of an emergency!
- Support your child's wellbeing and development.
- Manage any special educational, health or medical needs of your child whilst at the setting.
- Carry out regular assessments of your child's progress and to identify any areas of concern.
- Maintain contact with you about your child's progress and respond to any questions you may have.
- Notify you of service changes or issues.
- Process your claim for up to 30 hours free childcare (where applicable)
- Keep you updated with pre-school information and events.

With your consent we will also record your child's activities for their learning record (including Tapestry) which may include photographs and videos. We ask for your consent to use images during the admission process and you have the opportunity to withdraw your consent at any time, by confirming so in writing.

We have a legal obligation to process safeguarding related data about your child should we have concerns about their welfare.

We also have a legal obligation to transfer records and certain information about your child to the school that your child will be attending (see *Information Sharing* policy).

Who we share your data with

In order for us to deliver childcare services we will also share your data as required with the following organisations:

- Ofsted – during an inspection or following a complaint about our service.
- Banking services to process payments (as applicable)
- The Local Authority (where you claim up to 30 hours free childcare as applicable)
- The government's eligibility checker (as above)
- Our insurance underwriter (if applicable)
- The school that your child will be attending.

We will also share your data:

- If we are legally required to do so, for example by a court.
- to fulfil our admission terms and conditions.
- to protect your child and other children, for example by sharing information with social care or the police.
- If it is necessary to protect our rights, property or safety.

- If we transfer the management of the setting. In which case we may disclose your personal data to the prospective buyer so they may continue the service in the same way.

We will never share your data with any other organisation to use for their own purpose.

How do we protect your data?

We protect unauthorised access to your data and prevent it from being accidentally destroyed, misused or disclosed by:

- Storing it on password protected computers and USB sticks.
- Backing up data on a regular basis.
- Keeping children's information in a locked filing cabinet with only authorised access.
- Locking the office when not in use.

How long do we retain your data?

We retain your child's personal data for up to three years after your child no longer attends our setting or until our next Ofsted inspection after your child leaves. Medication and accident records are kept for longer according to legal requirements. Your child's learning and development records are maintained by us and made available to you when your child leaves.

In some instances (child protection or other support services referrals) we are obliged to keep your data for longer if it is necessary to comply with legal requirements (see *Record Keeping policy*)

Your rights with respect to your data

You have a right to:

- Request access, amend or correct your/ your child's personal data.
- Request that we delete or stop processing your/your child's personal data, for example where the data is no longer necessary.
- Request that we transfer your and/or your child's data to another person.

If you wish to exercise any of these rights at any time or if you have any questions, comments or concerns about this privacy notice and how we handle your data please contact us.

If you continue to have concerns about the way your data is handled and remain dissatisfied after raising your concern with us, you have the right to complain to the Information Commissioner Office (ICO).

The ICO can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or ico.co.uk/. Our ICO reference number is ZA040917.

Changes to this notice

We keep this notice under regular review. You will be notified of any changes where appropriate.

This Policy and Procedure relates to the Information and Records section of the EYFS Statutory Framework.

APPENDIX E

Information sharing

Our procedure is based on the GDPR principles as listed above and the seven golden rules for sharing information in the '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 Safeguarding Children Partners.

1. *Remember that the General Data Protection Regulations 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 individuals is shared appropriately.*

This policy provides guidance on the appropriate sharing of information both within the setting as well as with external agencies.

- We work in partnership, or in tandem, with local and national agencies to promote the well-being of children. We will never share your data with any organisation to use for their own purpose.
- We have procedures in place for the sharing of information about children and families with other agencies. These are set out here and in our Privacy Notice, Safeguarding, and SEN policies.
- Information shared by other agencies with us is regarded as third-party information. This is also kept in confidence and not shared without consent from that agency.
- We follow the protocols for working with agencies for example on child protection.
- When working in partnership with staff from other agencies, we make them welcome in our setting and respect their professional roles.
- We ensure staff from other agencies do not have unsupervised access to the child they are visiting and do not have access to other children during their visit.
- Our staff do not casually share information or seek informal advice about any named child/family.
- When necessary, we consult with and signpost local and national agencies who offer advice and information that help us develop our understanding of the issues facing us and who can provide support and information for parents.

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 consent, unless it is unsafe or if I have a legal obligation to do so. A Privacy Notice is given to parents at the point of registration to explain this further.*

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 to intervene where one may have been, to prevent harm to a child or adult.
- Not sharing it could be worse than the outcome of having shared it.

In our setting we ensure parents:

- Receive a copy of our Data Protection Policy when their child starts in the setting and that they sign to say that they understand the circumstances in which information may be shared without their consent. This will only be when it is a matter of safeguarding a child or vulnerable adult.
- Have information about our Safeguarding Policy
- Have information about the other circumstances when information will be shared with external agencies, for example, with regard to special needs or in the transition to school.

Transfer of Records to school

We recognise that children sometimes move to another early years setting before they go on to school, although many will leave our setting to enter a reception class.

- We prepare records about a child's development and learning in the Early Years Foundation Stage (EYFS) in our setting in order to enable smooth transitions.
- We share appropriate information with the receiving setting or school at transfer.
- Confidential records are shared where there have been child protection concerns according to the process required by our Local Safeguarding Children's Partners (LSCP)
- Prior to transferring information, we will establish the lawful basis for doing so (see Privacy Notice).

Transfer of developmental records for a child moving to another early setting or school

- Using the *Early Years Outcomes* (DfE 2013) guidance and our assessment of the children's development and learning, the key worker will prepare a summary of achievements in the seven areas of learning and development. These are checked by the Learning and Development Leader.
- The record refers to:
 - any additional language spoken by the child and his or her progress in both languages.
 - any additional needs that have been identified or addressed by our setting.
 - any special needs or disability, whether a CAF was raised in respect of special needs or disability, whether there is an Education, Health and Care Plan, and the name of the lead professional.
- The record contains a summary by the key person and any comments from the parent of the child.
- When a child will require some additional support in transferring to school, the pre-school staff meet with the school SENCO to complete a Transition Partnership Agreement (TPA).
- If the school uses Tapestry, the child's Tapestry journal will be passed onto them.
- If there have been any welfare or protection concerns, the assessment is marked accordingly.

Transfer of Confidential information

- The receiving school or setting will need to have a record of any safeguarding or child protection concerns that were raised in our setting and what was done about them.
- We will make a summary of the concerns to send to the receiving setting or school, along with the date of the last professional meeting or case conference. Some LSCPs will stipulate the forms to be used for this.
- Where a CAF has been raised in respect to any welfare concerns, we will pass the name and contact details of the lead professional on to the receiving setting or school.
- Where there has been a s47 investigation regarding a child protection concern, we will pass the name and contact details of the child's social worker on to the receiving setting or school – regardless of the outcome of the investigation.
- We post or take the information to the school/setting, ensuring it is addressed to the designated person for child protection and marked as 'confidential'.
- We do not pass any other documentation from the child's personal file to the receiving setting or school.

3. *Seek advice from others if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.*

- Staff routinely discuss concerns about a child and any actions are recorded in their file.
- Our Safeguarding Lead routinely seeks advice about possible significant harm.
- Our Safeguarding Policy sets out the duty of all staff members to refer concerns to the Safeguarding Lead, who will contact children's social care where they are unsure or have doubts. They will seek advice if they need to share information without consent to disclose.

4. *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. 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 judgement about the facts of the case and whether there is a legal obligation.
- We follow our guidelines for consent.

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.*

- For child protection matters, concerns are recorded and discussed with the Safeguarding Lead.
- We record the decisions made and the reasons why the information is to be shared and with whom.

- We follow the procedures for reporting concerns as detailed in our Safeguarding Policy.
- 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*
- 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.*
- A record will be kept on when information is shared and also where it was decided that information should not be shared.

Consent

When parents choose our setting for their child, they will share information about themselves and their families. This information is regarded as confidential. Parents have the right to be informed that we will seek their consent to share information in most cases, as well as the kinds of circumstances when we may not seek their consent or may override refusal to give consent (see Privacy Notice)

- Parents sign the Admissions Terms and Conditions and the Safeguarding Policy to confirm they understand this.
- We consider the following questions when we assess the need to share:
 - Is there a legitimate purpose to sharing the information?
 - Does the information enable the person to be identified?
 - Is the information confidential?
 - If it is confidential, do we have consent to share?
 - Is there a statutory duty or court order requiring us to share the information?
 - If consent is refused or there are good reasons not to seek consent, is there sufficient public interest for us to share information?
 - If the decision is to share, are we sharing the right information in the right way?
 - Have we recorded our 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 the information, the purpose of sharing it and the implications for them.
- Consent may be explicit, preferably in writing, or implicit if the context is such that sharing information is an intrinsic part of our service or it has been agreed at the outset.
- Consent may be withdrawn at any time.
- If parents are separated, consent to share need only be sought from one parent, usually the parent with whom the child resides. Where there is a dispute, this will be carefully considered.
- Where a child is looked after, we may need to consult the Local Authority as a 'corporate parent' before information is shared.

Client access to records

Parents may request access to any confidential records we hold on their child and family using the following procedures:

- They can request access when a child is too young to give 'informed consent' and has a right to see what information the setting has compiled on them.
- Any request to see information must be made in writing to the Pre-school Leaders. This request is also acknowledged in writing.
- Written acknowledgement allows one month for the file to be made available, to allow time to seek third party consent to see information related to them. This can be extended by a further two months if requests are complex and numerous.
- Files are always checked for any missing information before they are shared.
- Each third party with information relating to them must be asked for consent to share their information. This can include other family members, workers from other agencies and members of staff. If consent is refused this information must be removed from the copy of the file which is to be shared. This is called the clean copy.
- The Pre-school Leaders may seek legal advice before sharing a file.
- Once a file is ready, the parent or carer is asked to make an appointment to see it so the Pre-school Leaders can discuss it with them and explain the process and content of the child's record. The parent may take a copy

of the clean file away but only after this discussion. If a parent feels aggrieved by anything in the file they may follow the Complaints procedure.

- It is an offence to remove controversial information or rewrite records to make them more acceptable.
- The law requires that the information we hold must be held for a legitimate reason and must be accurate (see Privacy Notice). If a parent or carer says the information we hold is inaccurate, they have the right to request it be changed. This only covers factual inaccuracies not matters of opinion, professional judgement or different points of view.
- Telephone advice for general queries may be made to The Information Commissioner's Office Helpline – 03031231113.

Legal Framework

- General Data Protection Regulation (GDPR) (2018)
- Freedom of Information Act (2000)
- Human Rights Act (1998)
- Children Act (1989)

This Policy and Procedure relates to the Information and records section of the EYFS Statutory Framework.