



Harvard Park Policies and Procedures:  
**Confidentiality and Client access to Records**

## 33. Confidentiality and Client access to records

### 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 2024)

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 United Kingdom General Data Protection Regulation (UK-GDPR) 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 without obtained consent. Normally parents/carers should give informed consent before information is shared, but in some instances, such as if this may place a child at risk, or a serious offence may have been committed, parents/carers consent should not be sought before information is shared. Hounslow Safeguarding Children's Partnership (LSP) procedures should be followed when making referrals, and advice sought if there is a lack of clarity about whether parental/carers consent is needed before making a referral due to safeguarding concerns.
- Information shared with other agencies is done in line with our Information Sharing Policy and our Privacy notice.
- We always check whether parents/carers regard the information they share with us to be confidential or not.
- Some parents/carers may share information about themselves with other parents/carers as well as with our staff we cannot be held responsible if information is shared by those parents/carers whom the person has 'confided' in.
- Information shared between parents/carers 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 other than those who are employed by Harvard Park.

- We inform parents/carers when we need to record confidential information beyond the general personal information we keep (see our Privacy Notice and Record Keeping Policy) – for example with regard to any injuries, concerns or changes in relation to the child or the family, any discussions with parents/carers 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 Policy) and a PIA (Privacy Impact Assessment) is carried out to ensure all possible preventions are taken to prevent a data breach.
- Most information is kept in a manual file. However, our staff may use a computer to type reports, or letters. Where this is the case, the typed document is deleted from the PC and only the hard copy kept.
- Where it is helpful to keep an electronic copy, we download it onto a computerised system, labelled with the child's name and the date in which the file is to be permanently erased which only Managerial staff have access to. No documents are kept on the computer hard drives as the PC's do not have facilities for confidential user folders. All computers are however password protected as are data sensitive documents.
- Our staff discuss children's general progress and wellbeing together in meetings, but more sensitive information is restricted to our manager and/or directors and the child's key person – it 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, or with other parents/carers 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 with us; our early years educators and managers check if it is confidential, both in terms of the party sharing the information and of the person whom the information concerns.

### **Breach of confidentiality**

- A breach of confidentiality occurs when confidential information is not authorised by the person who provided it, or to whom it relates, without lawful reason to share.
- The impact that it has may put the person in danger, cause embarrassment or pain.
- It is not a breach of confidentiality if information was provided on the basis that it would be shared with relevant people or organisations with lawful reason, such as to safeguard an individual at risk or in the public interest, or where there was consent to the sharing.

### **Exception**

- UK-GDPR enables information to be shared lawfully within a legal framework. The Data protection Act 2018 balances the right of the person about whom the data is stored with the possible need to share the information.
- The Data Protection Act 2018 contains “*safeguarding of children and individuals at risk*” as a processing condition enabling “*special category personal data*” to be processed and to be shared. this allows educators to share without consent if it is not possible to gain consent, if consent cannot reasonably be gained, or if giving consent would place a child at risk.
- Confidential Information may be shared without authorisation – either from the person who provided it or to whom it relates, if it is in the public interest and it is not possible or reasonable to gain consent or if gaining consent would place a child or other person at risk. The Data protection Act 2018 enables data to be shared to safeguard children and individuals at risk. Information may be shared to prevent a crime from being committed or to prevent harm to a child. Information can be shared without consent in the public interest if it is necessary to protect someone from harm, prevent or detect a crime, apprehend an offender, comply with a court order or other legal obligation or in certain other circumstances where there is sufficient public interest.
- Sharing confidential information without consent is done only in circumstances where consideration is given to balancing the needs of the individual with the need to share information about them.
- When deciding if public interest should override a duty of confidence, consider the following:
  - Is the intended disclosure appropriate to the relevant aim?
  - What is the vulnerability to those at risk?
  - Is there another equally effective means of achieving the same aim?
  - Is sharing necessary to prevent/detect crime and uphold the rights and freedoms of others?
  - Is the disclosure necessary to protect other vulnerable people?

The decision to share information should not be made as an individual, but with the backing of the designated safeguarding lead (DSL) who can provide support, and sometimes ensure protection, through appropriate structures and procedures.

### **Obtaining Consent**

Consent to share information is not always needed. However, it remains best practice to engage with people to try and get their agreement to share where it is appropriate and safe to do so. Using consent as the lawful basis to sort, store and share information is only valid if the person is fully informed and competent to give consent and they have given consent of their own free will, and without coercion from others. Individuals have the right to withdraw their consent at any time. We will not seek consent to disclose personal information in circumstances where:

- Someone has been hurt and information needs to be shared to quickly help them
- Obtaining consent would put someone at risk of increased harm

- Obtaining consent would prejudice a criminal investigation or prevent a person being questioned or caught for a crime they may have committed
- The information must be disclosed regardless of whether consent is given, for example, if a court order or other legal obligation requires disclosure.

**NB.** The serious crimes indicated are those that may harm a child or adult; reporting confidential information about crimes such as theft or benefit fraud are not in this remit.

### **Consent**

- o Parents/carers share information about themselves and their families. They have the right to know that any information they share will be regarded as confidential as outlined in our Privacy Notice. They should also be informed about the circumstances and reasons for the setting being under obligation to share information.
- o Parents/carers are advised that their informed consent will be sought in most cases, as well as the circumstances when consent may not be sought, or their refusal to give consent is overridden.
- o Where there are concerns about whether to gain parental/carer consent before sharing information, for example when making a Channel or Prevent referral, the setting manager must inform their managing director for clarification before speaking to parents/carers.
- o Consent must be 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 the information and the implications for them of sharing that information.

### **Separated Parents**

- o Consent to share needs to only be sought from one parent. Where parents are separated, this would normally be the parent with whom the child resides.
- o Where there is a dispute, this needs to be considered carefully.
- o Where the child is looked after, the local authority as 'corporate parent' may also need to be consulted before information is shared.

### **Client access to records procedures**

Parents/carers may request access to any confidential records we hold on their child and family following the procedure below:

- o The parent/carer 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.
- o Any request to see the child's personal file by a parent or person with parental responsibility must be made in writing to setting manager or director. This can be done by filling in the setting's Subject Access Request Form. This outlines what it is they want to do with the information i.e. right to be informed, access, rectification, erasure, restrict processing, data portability or right to object.

- We acknowledge the request in writing, informing the parent that an arrangement will be made for them to see the file contents, subject to third party consent.
- Our written acknowledgement allows a full calendar month which can be extended up to a further 2 months – totalling up to 60 days.
- A fee may be charged for repeated requests, or where the request requires excessive administration to fulfil.
- All requests and acknowledgments are kept on record for legal purposes.
- Our manager informs the directors, and legal advice may be sought before sharing a file.
- Our director goes through the file with their setting manager and ensures 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, stepparent, 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. Privacy statements from other agencies are available on request.
- 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/carer. In each case this should be discussed with members of staff and decisions recorded.
- When we have received all the consents/refusals our manager and/or directors take a photocopy of the complete file. On the copy of the file, our manager and/or directors remove 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 the director/ manager and 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 /carer to see.
- Our manager and/or directors inform the parent that the file is now ready and invite[s] them to make an appointment to view it.
- Our director and Manager meet with the parent/carers 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/carers' legal representative or interpreter.
- The parent/carers may take a copy of the prepared file; but, to ensure it is properly explained to and understood by the parent/carers, 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/carers 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 accurate. If a parent says that the information, we hold is inaccurate, then the parent/carers 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/carers' 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/carers, 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/carers 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 our setting, which is to the safety and well-being of the child. Please see also our policy on Safeguarding Children and Child Protection.

### **Further Guidance**

Working Together to Safeguard Children (DfE, 2023, updated 2025)

[https://assets.publishing.service.gov.uk/media/6849a7b67cba25f610c7db3f/Working\\_together\\_to\\_safeguard\\_children\\_2023\\_-\\_statutory\\_guidance.pdf](https://assets.publishing.service.gov.uk/media/6849a7b67cba25f610c7db3f/Working_together_to_safeguard_children_2023_-_statutory_guidance.pdf)

Information Sharing Advice for practitioners Providing Safeguarding Services to children, young People, Parents and Carers (HMG, 2024):

[https://assets.publishing.service.gov.uk/media/66320b06c084007696fca731/Info\\_sharing\\_advice\\_content\\_May\\_2024.pdf](https://assets.publishing.service.gov.uk/media/66320b06c084007696fca731/Info_sharing_advice_content_May_2024.pdf)

What to do if you are worried a child is being abused (HMG, 2015):

[https://assets.publishing.service.gov.uk/media/5a80597640f0b62302692fa1/What\\_to\\_do\\_if\\_you\\_re\\_worried\\_a\\_child\\_is\\_being\\_abused.pdf](https://assets.publishing.service.gov.uk/media/5a80597640f0b62302692fa1/What_to_do_if_you_re_worried_a_child_is_being_abused.pdf)

Mental Capacity Act 2005, Code of practice (Office of the Public Guardian, 2007):

<https://assets.publishing.service.gov.uk/media/5f6cc6138fa8f541f6763295/Mental-capacity-act-code-of-practice.pdf>

This Policies and Procedures pack was adjusted by Harvard Park.

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Signed on behalf of the Directors and Proprietors

**Nicki Saunders and Tracey Milstead**