



# 10. Confidentiality Policy

**This policy links to the following Legislation & Key Guidance**

- Statutory Framework for the Early Years Foundation Stage – Sept 2023
  - The Equality Act - 2010
  - Human Rights Act - 2000
  - Every Child Matters – 2004
  - SEND Code of Practice - 2015
- UN Convention on the rights of the child - 1989
  - Children Act - 1989 & 2004
    - GDPR – May 2018
    - Childcare Act – 2006
- Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (July 2018):
  - Freedom of Information Act 2000
  - Equality Act 2010

Unique Child	Positive Relationships	Enabling Environments	Learning & Development
Every child is a unique child who is constantly learning and can be resilient, capable, confident and self-assured.	Children learn to be strong and independent through positive relationships	Children learn and develop well in enabling environments with teaching and support from adults, who respond to their individual interests and needs and help them to build their learning over time. Children benefit from a strong partnership between practitioners and parents and/or carers.	Children develop and learn at different rates. The framework covers the education and care of all children in early years' provision, including children with special educational needs and disabilities.

# 10. Confidentiality

## 10.1 Confidentiality and client access to records

### Policy statement

Confidential information is information of some sensitivity which is not already 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.

All information regarding children, families, staff and others working in the Nursery will be treated as confidential within the setting and will not be shared with outside sources without the permission of the person concerned, except in the interest of safeguarding children defined by the Children Act 1989, The Statutory Framework for the Early Years Foundation Stage (incl. Safeguarding & Welfare Requirement) 2023 or in accordance with the GDPR May 2018. This policy must be adhered to by everyone in the setting including staff, parents, voluntary helpers and visitors.

### Procedures

- The Nursery will always check with parents whether the information they share with staff is to be regarded as confidential.
- If parents share information amongst themselves the Nursery cannot be held responsible if information is shared beyond those whom the person has confided in.
- Information shared between parents or staff in a training group is bound by a shared agreement that the information is confidential to the group and not discussed outside it.
- The Nursery informs parents of the need to record confidential information beyond the general personal information we keep (*See 7. Documentation, Record Keeping & ICT Policy*) – e.g., accidents and injuries; concerns or changes in relation to the child or family; any discussions with parents, any records we are obliged to keep regarding action taken in safeguarding children and any contact or correspondence with external agencies in relation to children.
- All records are kept securely according to our *7. Documentation, Record Keeping & ICT Policy*

### **Client access to records**

Parents may request access to any confidential records held on their child and family (these do not include Learning Journals which are available to view at any time via the Family app).

Please see *7. Documentation, Record Keeping & ICT Policy – 7.6 Data Subject Access Requests*

All the above are subject to the Nursery's commitment to safeguard the child. See also *9. Child Protection & Safeguarding policy*

## 10.2 Information sharing

### Policy statement

The Nursery acknowledges that parents have a right to know that information they share will be regarded as confidential, as well as to be informed about the circumstances and reasons when the Nursery is obliged to share information.

The Nursery is obliged to share 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 intervene where one may have been or to prevent harm to a child or adult: or
- ❖ Not sharing it could be worse than the outcome of having shared it.

The decision to share the information should never be made by an individual, but with the back-up of the management committee and taking into account three critical criteria:

- ❖ Where there is evidence that a child is suffering or is at risk of significant harm
- ❖ Where there is reasonable cause to believe that a child may be suffering or at risk of suffering significant harm
- ❖ To prevent significant harm arising to children and young people or serious harm to adults, including the prevention, detection and prosecution of serious crime.

### Procedures

The Nursery follows the 7 golden rules to sharing information in the *Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (July 2018)*:

1. Remember that the GDPR 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.
  - We ensure that parents have access to the information sharing policy when their child starts at Nursery.
  - We ensure that parents have access to the Safeguarding Policy
  - We ensure that parents have information about the circumstances when information will be shared with other agencies; e.g., with regard to special needs the child may have, where a child attends another setting and the transition to school.
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.

- Concerns are recorded and discussed with the Designated Safeguarding Officer and the Committee. Decisions made are recorded and the reasons why information will be shared and with whom.
- The Nursery follows the procedures for reporting concerns and record keeping.

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.

## Consent

Parents have the right to be informed that their consent to share information will be sought in most cases, as well as the circumstances when their consent may not be sought or their refusal to give consent overridden.

- Nursery policies and procedures set out our responsibility regarding gaining consent to share information, and when it may not be sought or overridden.
- We may cover this verbally when the child starts with us, and it is included in the Policies and Procedures on our website [www.prhn.co.uk](http://www.prhn.co.uk) with links from the welcome pack.
- The registration form sets out sharing information with other providers and school, which parents sign when their child starts Nursery
- Copies are given to parents of the forms they sign.
- Parents are asked to give written consent to share information about any additional needs their child may have.

## 10.3. Compliments, comments and complaints

### Policy statement

The Nursery always appreciates being kept informed by the parents of the way the Nursery operates and delivers the curriculum. Information may be conveyed verbally or in writing.

The Nursery believes that children and parents are entitled to expect courtesy and prompt, careful attention to their needs and wishes. We welcome suggestions on how we can improve the Nursery and will give prompt, serious attention to any concerns about the running of the setting.

We anticipate that most concerns will be resolved quickly by an informal approach to the appropriate member of staff. In the unlikely event of there being a problem with Nursery the first person to approach would be your child's key person. If the concern is of a more serious nature, then the point of contact would be the Manager as they are responsible for the day to day running of the Nursery. However, the Manager may feel that it does not come into the realms of their responsibility, or they need further guidance in which case the matter would be referred to the Chair of The Committee.

## Procedures

### **Stage 1: - Resolving complaint informally:**

- Speak to your child's key person or the Manager.
- The problem should be solved amicably and to the satisfaction of the complainant in a maximum of five days.

### **Stage 2: - Resolving a formal complaint:**

- The complaint is put in writing to the Manager and Chair of Committee.
- A friend or advisor can also write on the complainant's behalf but the person making the complaint must sign the letter.
- The complaint should be registered in the complaints file.
- The committee should be told that:
  - ❖ A complaint has been made.
  - ❖ It is being investigated.
  - ❖ By whom.

#### **NO DETAILS NEED BE DIVULGED**

- If the complaint concerns a staff member, that person must be told that a formal complaint has been made, be given full details and be advised of the Disciplinary and Dismissal Procedures. See *11. Organisation & Management Policy – 11.8 Disciplinary and Grievance and Appendix 1*
- If the complaint could lead to safeguarding concerns, then the procedure set down in *9. Child Protection & Safeguarding Policy – 9.7 Low level concerns and allegations of serious harm or abuse made against staff or volunteers* must be followed.
- The complaint must be acknowledged in writing, including the timetable for investigation and reporting back – a maximum of 28 days.

### **Stage 3: - Setting up a review panel**

- Three people will usually be appointed to the panel. One will be independent. No panel member should be a personal friend of the complainant or have had a part in earlier procedures of the complaint.
  - ❖ Complainant is informed of the make up of the panel in advance and may object.
  - ❖ Complainant may have a friend, advisor or interpreter present
  - ❖ Panel must have access to all relevant materials or reports and be able to talk with relevant people.
  - ❖ Appeal is carried out in location and time to suit complainant
  - ❖ Panel must come to a decision and if necessary, make recommendations for future action
  - ❖ Written report made of review to include:
    - Nature of complaint
    - Where and when review took place
    - Who was present
    - What was said by whom
    - What was established as fact and what was unable to be confirmed
    - What action is proposed to remedy this problem
- This report will be circulated to all present at the review.
- A record of complaints will be kept for a reasonable time according to the gravity of the complaint.
- The outcome of all complaints is recorded and can be made available for parents and Ofsted inspectors on request

**This complaints procedure is separate from (but could lead to) the Disciplinary and Dismissal Procedure.**

## 10.4 Whistle blowing policy

### Policy statement

It is the duty of all staff to ensure that the children at nursery are healthy, protected from harm or neglect, able to enjoy and achieve and make a positive contribution. If any person or practice in the nursery is likely to hinder these aims then staff have a duty to report such incidences.

All staff should report any unlawful conduct, financial malpractice and any dangerous practice or procedures.

Any such reports will be dealt with seriously and in strictest confidence.

### Procedures

The whistle blowing procedure must be followed in the first instance if:

- a criminal offence has been committed, is being committed or is likely to be committed.
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject. This includes non-compliance with policies and procedures, breaches of EYFS and/or registration requirements.
- a miscarriage of justice has occurred, is occurring or is likely to occur.
- the health and safety of any individual has been, is being or is likely to be endangered.
- the working environment has been, is being or is likely to be damaged.
- that information tending to show any matter falling within any one of the preceding clauses has been, is being or is likely to be deliberately concealed.

There are 3 stages to raising concerns as follows:

1. If staff wish to raise or discuss any issues which might fall into the above categories, they should normally raise this issue with the Manager or Designated Safeguarding Lead.
2. Staff who are unable to raise the issue with the Manager or DSL should raise the issue with the Chairperson or the Appointed Safeguarding Lead of the Committee.
3. If staff are still concerned after the investigation, or the matter is so serious that they cannot discuss it with the Manager or the Committee, they should raise the matter with Nigel Hatten, LADO (Local Authority Designated Officer) [nigel.hatten@gloucestershire.gov.uk](mailto:nigel.hatten@gloucestershire.gov.uk)

Ultimately, if an issue cannot be resolved and the member of staff believes a child remains at risk because the setting or the local authority have not responded appropriately, the NSPCC have introduced a whistle-blowing helpline 0800 028 0285 for professionals who believe that:

- their own or another employer will cover up the concern,
- they will be treated unfairly by their own employer for complaining.
- if they have already told their own employer and they have not responded.

It is also possible to contact the regulatory body Ofsted with any concerns or complaints on 0300 123 4666 or e-mail [enquiries@ofsted.gov.uk](mailto:enquiries@ofsted.gov.uk), or write to:

Applications, Regulatory & Contact Team

Ofsted

Piccadilly Gate

Store Street

Manchester

M1 2WD

[www.ofsted.gov.uk/early-years-and-childcare](http://www.ofsted.gov.uk/early-years-and-childcare)

Your local Family Information Service can be found by using the following link:

[www.glofamiliesdirectory.org.uk](http://www.glofamiliesdirectory.org.uk)