



Data Sharing Policy

Version	Purpose/Change	Author	Date
1.0	Initial version	Will Harries	03/09/2018
1.0	Reviewed	Will Harries	27/01/2020
1.1	Reviewed Added note about Data Protection Toolkit	Will Harries	03/02/2021
1.2	Reviewed	Jessie Kazak	15.3.24

Requires review: 15.3.26

Definitions

ICO	Information Commissioners Office
DPO	Data Protection Officer

Summary

The Kindergarten recognises that parents have a right to know that information they share with the Kindergarten will be regarded as confidential.

Parents will be informed about the circumstances where the Kindergarten is obliged to share information.

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. This is when:

- a. 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
- b. not sharing it could be worse than the outcome of having shared it.

The decision will not be made by an individual, but with the support and guidance of the Kindergarten's DPO or Local Education Authority advisors, without disclosing confidential information.

Critical criteria for disclosing information are:

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

Policy

Our policy is based on the Seven Golden Rules of Information Sharing, as described in HM Government's [Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers \(June 2018\)](#):

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.*

- a. Our policy and procedures on information sharing provide guidance on appropriate sharing of information, both internally and with external agencies.
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.*
 - a. We ensure that parents:
 - i. receive information about our Information Sharing Policy when starting their child in the Kindergarten and that they sign our Registration Form 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;
 - ii. have information about our Safeguarding Children and Child Protection Policy; and
 - iii. have information about the other circumstances when information will be shared with external agencies, for example, with regard to any special needs the child may have or 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.*
 - a. Our staff discuss concerns about a child routinely in supervision and any actions are recorded in the child's file.
 - b. Our Safeguarding Children and Child Protection Policy sets out the duty of all members of our staff to refer concerns to our Safeguarding Officer, as designated person, who will contact children's social care for advice where they have doubts or are unsure.
 - c. Our staff seek advice if they need to share information without consent to disclose.
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.*
 - a. We base decisions to share information without consent on judgements about the facts of the case and whether it is 'in the public interest'.
 - b. Our guidelines for consent are part of this procedure.
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.*
 - a. We:

- i. record concerns and discuss these with our designated person and/or designated officer from the management team for child protection matters;
 - ii. record decisions made and the reasons why information will be shared and to whom; and
 - iii. follow the procedures for reporting concerns and record keeping as set out in our Safeguarding Children and Child Protection 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.*
 - a. Our Safeguarding Children and Child Protection Policy and Children's Records Policy set out how and where information should be recorded and what information should be shared with another agency when making a referral.

- 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. Where information is shared, we record the reasons for doing so in the child's file; where it is decided that information is not to be shared that is recorded too.

Consent

When parents choose our Kindergarten for their child, they will share information about themselves and their families. This information is regarded as confidential. Parents have a right to be informed that we will see 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 their refusal to give consent.

We inform them as follows:

- a. Our policies and procedures set out our responsibility regarding gaining consent to share information and when it may not be sought or overridden.
- b. We may cover this verbally when the child starts or include this in our Registration Form documents.
- c. Parents sign our Registration Form at registration to confirm that they understand this.
- d. We ask parents to give written consent to share information about any additional needs their child may have, or to pass on child development summaries to the next provider/school.
- e. We consider the following questions when we need to share:
 - i. Is there legitimate purpose to us sharing the information?
 - ii. Does the information enable the person to be identified?

- iii. Is the information confidential?
- iv. If the information is confidential, do we have consent to share?
- v. Is there a statutory duty or court order requiring us to share the information?
- vi. If consent is refused, or there are good reasons for us not to seek consent, is there sufficient public interest for us to share information?
- vii. If the decision is to share, are we sharing the right information in the right way?
- viii. Have we properly recorded our decision?
- f. 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 information, the purpose of sharing it and the implications for them of sharing that information.
- g. Consent may be explicit, verbally but preferably in writing, or implicit, implied if the context is such that sharing information is an intrinsic part of our service or it has been explained and agreed at the outset.
- h. We provide our Information Sharing Policy to parents.

Separated parents

- a. Consent to share need only be sought from one parent. Where parents are separated, this would normally be the parent with whom the child resides. Where there is a dispute, we will consider this carefully.
- b. Where the child is looked after, we may also need to consult the Local Authority, as 'corporate parent' before information is shared. All the undertakings above are subject to our paramount commitment, which is to the safety and well-being of the child. Please also see our Safeguarding Children and Child Protection Policy.

Legal Basis

- a. General Data Protection Regulation 2016/679
- b. Human Rights Act 1998

Further guidance

[Information sharing Advice for practitioners providing safeguarding services to children, young people, parents and carers \(June 2018\).](#)

Also see Data Protection Policy for link to Data Protection Toolkit for Schools.