

Safeguarding and Welfare Requirement: Information and Records

Confidential information and records about staff and children must be held securely and only accessible and available to those who have a right or professional need to see them.



Confidentiality, Data Protection and Client Access to Records

Statement of intent

For the purpose of this policy, confidentiality relates to the transmission of personal, sensitive or identifiable information about individuals or organisations (confidential information), which comes into the possession of the Crofton Early Learners through its work.

At Crofton Early Learners 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; the means we use to store and share that information takes place within the framework of the Data Protection Act (1998) and the Human Rights Act (1998). All personal data will be dealt with sensitively and in the strictest confidence internally and externally.

Aim

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.

Methods

We keep two kinds of records on children attending our setting:

1. Developmental records

- These include observations of children in the setting, samples of their work, summary developmental reports, photographs and records of achievement.
- They are usually kept in the main hall and can be accessed, and contributed to, by staff, the child and the child's parents.

2. Personal records

- These include registration and admission forms, signed consents, and correspondence concerning the child or family, reports or minutes from meetings concerning the child from other agencies, an ongoing record of relevant contact with parents, and observations by staff on any confidential matter involving the child, such as developmental concerns or child protection matters are recorded in line with our child protection and safeguarding policy.
- These confidential records are stored in lockable cabinets and are kept secure by the Leader or the SENCO in a suitably safe place.
- Parents have access, in accordance with the access to records procedure, to the files and records of their own children but do not have access to information about any other child.
- Staff will not discuss personal information given by parents with other members of staff, except where it affects planning for the child's needs. Staff induction includes an awareness of the importance of confidentiality in the role of the key person or support worker.

Other records

- Issues to do with the employment of staff, whether paid or unpaid, remain confidential to the people directly involved with making personnel decisions.
- Tapestry, our online journal system, requires children's dates of birth. These are only seen by relevant parents who create their own passwords into the system.
- Students on Early Years Alliance or other recognised qualifications and training, when they are observing in our setting, are advised of our confidentiality policy and required to respect it. Children are not named on students' work.

Confidentiality procedures

- We always check whether parents regard the information they share with us to be confidential or not.
- Some parents may share information about themselves with other parents as well as staff; the setting cannot be held responsible if information is shared beyond those parents whom the person has 'confided' in.
- Information shared between parents 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.
- Subject to our overriding obligations under safeguarding we inform parents when we need to record confidential information beyond the general personal information we keep - 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, any records we are obliged to keep regarding action taken in respect of child protection as outlined in our Safeguarding and Child Protection Policy.
- We keep all records securely.
- Children's files may be handed to Ofsted as part of an inspection or investigation; they may also be handed to local authority staff conducting a S11 audit as long as authorisation is seen.

Client access to records procedures

Parents may request access to any confidential records held on their child and family following the procedure below:

- Any request to see the child's personal file by a parent or person with parental responsibility must be made in writing to the Leader.
- The Leader informs the chairperson of Trustees and sends a written acknowledgement.
- Crofton Early Learners commits to providing access within 10 working days, although this may be extended.
- The Leader and Chair of Trustees prepare the file for viewing.
- All third parties are written to, stating that a request for disclosure has been received and asking for their permission to disclose to the person requesting it. Copies of these letters are retained on file.
- 'Third parties' include all family members who may be referred to in the records.
- It also includes workers from any other agency, including children's social care, the health authority, etc. It is usual for agencies to refuse consent to disclose, preferring the individual to go directly to them.
- When all the consents/refusals to disclose have been received, these are attached to the copy of the request letter.
- A photocopy of the complete file is taken. A charge will be made for this.
- The Leader and Chair of Trustees go through the file and remove any information which a third party has refused consent to disclose. A thick black marker is used, to score through every reference to the third party and information they have added to the file.
- 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'.
- The 'clean copy' is photocopied for the parents, who are then invited in to discuss the contents. The file should never be given straight over, but should be gone through by the Leader, so that it can be explained.
- Legal advice may be sought before sharing a file, especially where the parent has possible grounds for litigation against the setting or another (third party) agency.

All the undertakings above are subject to the paramount commitment of the setting, which is to the safety and well-being of the child. Please see also our policy on Safeguarding Children and Child Protection.

Principles of data protection: lawful processing of data

Personal data shall be:

- a) processed lawfully, fairly and in a transparent manner in relation to the data subject
- b) collected for specified, explicit and legitimate purposes and not further processed in a manner that is not compatible for these purposes
- c) adequate, relevant and necessary in relation to the purposes for which they are processed
- d) accurate, and where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purpose for which they are processed, are erased or rectified without delay
- e) kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed
- f) processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures (“integrity and confidentiality”) Article 5 of the General Data Protection Regulations (2018)

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

General safeguarding recording principles

- It is vital that all relevant interactions linked to safeguarding children’s and individual’s welfare are accurately recorded.
- All recordings should be made as soon as possible after the event.
- Recording should be to a good standard and clear enough to enable someone other than the person who wrote it, to fully understand what is being described.
- Recording can potentially be viewed by a parent/carer or Ofsted inspector, by the successors of the educators who record, and may be used in a family Court as relevant evidence to decide whether a child should remain with their biological parents, or be removed to live somewhere else. Recording needs to be fair and accurate, non-judgemental in tone, descriptive, relevant, and should clearly show what action has been taken to safeguard a child, and reflect decision-making relating to safeguarding.
- Recording should be complete, it should show what the outcome has been, what happened to referrals, why decisions were made to share or not share information, and it should contain summaries and minutes of relevant multi-agency meetings and multi-agency communication.
- If injuries or other safeguarding concerns are being described the description must be clear and accurate and should give specific details of the injury observed and where it is located.

The principles of GDPR and effective safeguarding recording practice are upheld

- Recording is factual and non-judgemental.
- The procedure for retaining and archiving personal data and the retention schedule and subsequent destruction of data is adhered to.
- Parents/carers and children where appropriate are made aware of what will be recorded and in what circumstances information is shared, prior to their child starting at the setting. Parents/carers are issued with 07.1a Privacy notice and should give signed, informed consent to recording and information sharing prior to their child attending the setting. If a parent/carer would not expect their information to be shared in any given situation, normally, they should be asked for consent prior to sharing.

- There are circumstances where information is shared without consent to safeguard children. These are detailed below, but in summary, information can be shared without consent if an educator is unable to gain consent, cannot reasonably be expected to gain consent, or gaining consent places a child at risk.
- Records can be accessed by and information may be shared with local authority professionals. If there are significant safeguarding or welfare concerns, information may also be shared with a family proceedings Court or the police. Educators are aware of information sharing processes and all families should give informed consent to the way the setting will use, store and share information.
- Recording should be completed as soon as possible and within 5 working days as a maximum for safeguarding recording timescales.
- If a child attends more than one setting, a two-way flow of information is established between the parents/carers, and other providers. Where appropriate, comments from others (as above) are incorporated into the child's records.

Breaches of Confidentiality

Crofton Early Learners recognises that occasions may arise where individual staff members feel they need to breach confidentiality. Confidential or sensitive information relating to an individual may be divulged where there is risk of danger to the individual, a volunteer or employee, or the public at large, or where it is against the law to withhold it. In these circumstances, information may be divulged to external agencies e.g. police or social services on a need to know basis.

Where a staff member feels confidentiality should be breached the following steps will be taken:

- The staff member should raise the matter immediately with the Leader or a Trustee.
- The staff member must discuss with the Leader/Trustee the issues involved in the case and explain why they feel confidentiality should be breached and what would be achieved by breaching confidentiality. The Leader/Trustee should take a written note of this discussion.
- The Leader/Trustee is responsible for discussing with the staff member what options are available in each set of circumstances and is responsible for making a decision on whether confidentiality should be breached.

If an accidental breach of confidentiality takes place within the setting, this is recorded with the Data Protection Agency who advise on further steps if required.

Legal framework

- Data Protection Act (1998)
- Rehabilitation of Offenders Act
- The Children Act 1989
- Human Rights Act (1998)
- Prevention of Terrorism Act

This policy was adopted at a meeting of

Held on

Date to be reviewed

CROFTON EARLY LEARNERS

28 SEPTEMBER 2022

SEPTEMBER 2023
