

## Data Protection

At Little Learners we collect and process personal information about children, parents/carers and staff. We also keep records so we can operate our business.

This information is treated as personal data under the General Data Protection Act (GDPR) and the Data Protection Act 2018 (DPA). Personal data will be recorded, collected, stored, used, transferred, shared and destructed in accordance with the GDPR and DPA and any other relevant legislation.

This policy explains what information we collect, how we maintain confidentiality and security and how long we keep information.

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### 1. Children's Records

Records we keep about children include personal and learning and development records. These records are regarded as confidential on the basis of the sensitivity of information recorded. Personal records include, but not limited to:

- Information held electronically in Kindersoft (a nursery management software programme) includes parent/carer contact details, booking patterns and financial information
- The nursery registration form and contract which include parent and emergency contact details, children's medical information, consent forms and signed terms and conditions
- Accident forms (paper and electronic)
- Incident forms (paper and electronic)
- Pre-existing injuries (paper)
- Medication forms (paper)
- Daily registers (paper)
- Nappy changing forms (paper)
- Correspondence with parent, carers and outside agencies (paper and electronic)
- Information sharing decisions with outside agencies (paper and electronic).



Developmental records include, but not limited to:

- observations of children against the Early Learning Goals.
- photographs, video clips, samples of work and summary reports. These records are usually kept in the nursery rooms or on Tapestry (an on-line learning journal).

## 2. Business Records

We keep records for the purposes of maintaining our business. These records are regarded as confidential on the basis of the sensitivity of the information recorded e.g. employment records. Business records include but not limited to:

- Records pertaining to our registration with Ofsted.
- Insurance, landlord/lease documents and other contractual documentation pertaining to amenities, services and goods.
- Financial records pertaining to income and expenditure.
- Health and safety records, including risk assessments, monitoring visits and inspections.
- Recruitment records of job applicants including CV's and application forms.
- Employment records of staff, including application forms, employment contracts, DBS checks, accident and incident forms, appraisals and supervisions.

## 3. Management of Records

- a) All records are the responsibility of the Nursery Manager.
- b) Electronic records are securely stored and encrypted where relevant.
- c) All paper records are kept in an orderly way in files and filing is kept up-to-date.
- d) All personal confidential records are stored in a lockable filing cabinet and are kept secure by the manager in the office or other suitably safe place.
- e) Some personal records and all developmental records, such as those on Tapestry, can be freely accessed by parents.
- f) Parents have the right to access the personal files and records of their own child and may do this by making a Subject Access Request to the Nursery Manager.
- g) 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.
- h) The Nursery Manager will record decisions about information sharing with outside agencies, including whether consent has been given by parents. The record is filed in the child's confidential file.

## 4. Retention of Records

Nursery records are retained in line with the Information Retention Schedule.

## 5. Confidentiality

Definition of Confidentiality: *'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.' (Information Sharing: Practitioners Guide).

At Little Learners, staff and managers can be said to have a 'confidential relationship' with families. It is our intention to respect the privacy of children, parents and carers, while ensuring that they access high quality early years care and education in our nurseries. 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 work within the frameworks of the DPA, GDPR and relevant protocols when sharing information.

### 5.1 Confidentiality Procedures

- a) Staff should always check whether parents regard the information they share with as confidential or not.
- b) Some parents sometimes share information about themselves with other parents as well as staff; Little Learners cannot be held responsible if information is shared beyond those parents whom the person has 'confided' in.
- c) Information shared between parents in a discussion or group situation is usually bound by a shared agreement that the information is confidential to the group and not discussed outside of it.
- d) Beyond the general personal information we keep, we will inform parents when we need to record confidential information, for example where:
  - there are injuries, concerns or changes in relation to the child or the family
  - there are discussions with parents on sensitive matters
  - we have taken action in respect of child protection
  - where there has been contact and correspondence with external agencies in relation to their child.
  - Breaches of confidentiality by staff may result in disciplinary action.

### 6. Subject access request

Parents and carers have the right to access the personal data we hold about them or their child. This is known as a subject access request.

#### 6.1 Procedures:

Little Learners commits to providing access to confidential records within one month of the request.

- a) Any request to see the child's personal file by a parent, carer or person with parental responsibility may be made verbally or in writing to the Nursery Manager.
- b) The Nursery Manager will acknowledge the request in writing and prepares the file for viewing.
- c) Where relevant, 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:



- family members
  - workers from any other agency, including social services, the health authority, etc. It is usual for agencies to refuse consent to disclose, preferring the individual to go directly to them.
- d) We keep copies of these letters and their replies on the child's file.
- e) All consents/refusals to disclose are attached to the copy of the request letter.
- f) A photocopy of the complete file is taken.
- g) The manager goes through the file and redacts any information which a third party has refused consent to disclose. This is done with a redacting marker and every reference to the third party and information they have added to the file is removed.
- h) What remains is the information recorded by the nursery and that of any third parties who have agreed to their information being disclosed. This is called the 'clean copy'.
- i) 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 Nursery Manager, so that it can be explained.
- j) Legal advice may be sought before sharing a file, especially where the parent has possible grounds for litigation against Little Learners, or a third party.
- k) Parents have the right to request for inaccurate or incomplete personal data is rectified. In certain circumstances, parents also have the right to have personal data erased, restricted or suppressed, object to the processing of their personal and have data transferred to a third party. Requests to exercise these rights may be made to the Nursery Manager verbally or in writing.

## 7. Information Sharing

We recognise 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 we are obliged to share information.

The decision to share information will be made by the Nursery Manager through discussion with the Designated Safeguarding Lead. The three critical criteria for information sharing are:

- Where there is evidence that the child is suffering, or is at risk of suffering, 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.

Personal information is also stored with third party service providers (e.g. Tapestry, and Kindersoft) as part of the normal course of running our business and providing our services. Third party providers who process information on behalf of Little Learners are responsible for compliance with all necessary legislation and data protection directives, including the DPA and GDPR.

### 7.1 Procedures

Our procedures are based on the *Seven Golden Rules for Sharing Information as set out in 'Information Sharing: Practitioners Guide'*, (HMG July 2018).



### **Golden Rule 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.*

#### **How Little Learners Meets This Rule:**

We have based our policies and procedures on compliance with the GDPR, DPA and other relevant legislation. We understand that circumstances may arise when we have to share information and that sometimes this may be without consent. We explain this to parents and make sure parents have access to our policies and procedures that set out how personal data is stored and shared with others. A copy of our policies can be found in the policy handbook in our reception areas and on our website

<http://www.littlelearners-nurseries.co.uk/policies/>

### **Golden Rule 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.*

#### **How Little Learners Meets This Rule:**

During the registration process we seek consent from parents to share information. We inform parents about the circumstances when information will be shared with external agencies, for example when making referrals to speech and language or with regard to special educational needs. We inform parents that information sharing will be carried out in discussion with them. A copy of consents given is kept in each child's confidential file.

### **Golden Rule 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.*

#### **How Little Learners Meets This Rule:**

Practitioners are encouraged to seek advice from the Nursery Manager or Designated Safeguarding Lead where they have doubts about sharing information, or are unsure about the safety and well-being of a child.

The Nursery Manager will seek advice from the Designated Safeguarding Lead, or Multi-Agency Safeguarding Hub (MASH) where they have doubts about sharing information.

### **Golden Rule 4 – CONSENT**

*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.*



**How Little Learners Meets This Rule:**

The safety and well-being of children in our care is paramount and we consider the following when sharing information:

- If the information is confidential, do we have consent to share?
- Is there a statutory duty or court order to share information?
- If consent is refused, or there are good reasons not to seek consent, is there sufficient public interest to share information?
- If the decision is to share, are we sharing the right information in the right way?
- Have we properly recorded your decision?

**Golden Rule 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.*

**How Little Learners Meets This Rule:**

Concerns about the safety and well-being of children are recorded and discussed with the Lead Safeguarding Practitioner. Decision making is recorded in line with our Safeguarding and Child Protection policy.

The Nursery Manager will contact the Designated Safeguarding Lead, Multi-Agency Safeguarding Hub (MASH), or in an emergency 999 where they have doubts or are unsure about the safety and well-being of a child.

**Golden Rule 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.*

**How Little Learners Meets This Rule:**

We apply this principal when sharing information and ensure information is shared in line with our data protection procedures.

**Golden Rule 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.*

**How Little Learners Meets This Rule:**

Provision for this is set out in 1.1 above.

**8. Transfer of Records to Another Nursery or School**

Many of our children will leave our nursery to go onto school. Some may leave to go to another nursery.

We prepare children for these transitions and involve parents and the receiving nursery or school in this process. To enable smooth transitions, we prepare records about a child’s learning and development and share appropriate information, with parental consent, with the receiving nursery or school.



Confidential records are shared where there have been child protection concerns according to the process defined by the Local Safeguarding Children Board.

Our procedures guide this process and determines what information we can and cannot share with a receiving school or nursery.

### **8.1 Procedures for the transfer of development records for a child moving to another nursery or school**

- a) The key person will prepare a summary of achievements in the seven areas of learning and development.
- b) This assessment may also be accompanied by other evidence, such as the child's learning journey, photographs and drawings that the child has made.
- c) Parental consent will be sought before sharing the information.

### **8.2 Transfer of confidential information**

There is a joint responsibility when a child starts at a new setting/school to ensure the receiving setting/school has all existing child protection records. When a setting/school admits a new pupil, they must always check with the previous one whether there are any child protection records to transfer. However, it is also the responsibility of Little Learners to ensure any records are transferred to the new setting/school, with parental permission.

#### **8.2.1 Procedures for transferring confidential information**

- a) Where a child moves to another setting/school, any records of child protection/welfare concerns will be copied (by the Nursery Manager, or Deputy, in the interests of confidentiality) and the originals sent to the receiving setting/school as soon as possible. Records must be sent separately to the child's development records. The Nursery Manager should make telephone contact with their counterpart in the receiving setting/school to discuss the case, share important information and agree a means of transfer of the records as soon as is practicable.
- b) Child protection files sent by post must be sent by recorded delivery. The envelope should be marked as 'Strictly Confidential' and for the attention of the named Designated Safeguarding Lead.

The Manager, or Deputy must telephone the setting/school to notify them that the child protection file is being sent. A record of transfer form should be included with the file and the receiving setting/school must be asked to sign the form and return it to Little Learners to confirm they have received the file.

- c) Whenever a file is transferred, Little Learners will retain copies of the original file (which may be held electronically) and a copy of the 'File Transfer Record and Receipt'. Once confirmation of receipt at the new setting/school has been received, paperwork held by Little Learners will be retained in line with the Information Retention Schedule.
- d) Staff must to speak to the MASH team and take advice if parents do not give their permission to transfer the child protection file.



## 9. Links to other policies

This policy is linked to the policies shown below:

- CCTV
- Complaints
- Data Protection
- E-Safety
- Information Retention Schedule
- LifeLine Projects General Data Protection policy
- Safeguarding and Child Protection
- Staff Code of Conduct
- Use of Mobile Phones and Cameras
- Whistleblowing.

This policy meets the requirements of the Statutory Framework for the EYFS 1<sup>st</sup> September 2021.

Date policy last reviewed/updated	19 <sup>th</sup> November 2021	Reviewed by	Julia Ward, Quality Manager
Date of next review/update	November 2022		

