

# Pre-school Learning Alliance Children's Centre Procedures

## CC7 Record Keeping Procedures

### CC7.2 Confidentiality and Recording information

**Keeping a record of on-going work with the children and families is good practice when dealing with concerns, such as child protection, or involvement with other agencies. Information is recorded in ways that show that the setting has carried out its duty in an appropriate way. Information is 'confidential' but the centre is under a legal obligation to share relevant information with other agencies within an agreed formal framework. Consent from parents is not always sought if it is in the interests of the child not to.**

#### **Links to Every Child Matters**

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- Most things that happen between families and the centre are confidential to the centre. In exceptional circumstances information is shared, for example with social care or the police.
- Staff discuss general progress and well being together in meetings, but more sensitive information is restricted and is shared with other staff and agencies on a need to know basis.
- Staff do not discuss families with staff who are not involved in the families' care, nor with other families or anyone else outside of the centre.
- Discussions with other professionals take place within a professional framework and are not on an informal or ad-hoc basis.
- It is important that staff explain to families that sometimes it is necessary to record information and the reasons why.
- When recording information staff make sure that entries are dated correctly and the time included where it is necessary to do so. The person making the entry signs each time.
- The information recorded is clear and unambiguous; it records fact, not opinion, although it is fine to write concerns that may arise from what has been noted.
- Records are non-judgemental and do not reflect any biased or discriminatory attitude.
- Not everything needs to be recorded, but significant events, discussions and telephone conversations must be recorded at the time that they take place.

- When deciding what is relevant it is usually **the things that cause concern** that need to be recorded as well as **the action taken to deal with the concern**.
- Information shared with other agencies is done in line with the Alliance's Information Sharing Protocol and procedure CC7.4 which sets out the 7 golden rules for information sharing.
- Where information is shared, the reasons for doing so are recorded in the file; where it is decided that information is not to be shared that is recorded too.
- Most information is kept on a manual file. However, 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 this is downloaded onto a disc, labelled with the family's name and kept securely. NO documents are kept on the hard drive. This is because the centre's PC's may not have facilities for confidential user folders.

### **Confidentiality - Definition of what is confidential**

Confidential information is:

- Personal information of a private or sensitive nature, and
- 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 could reasonably expect it would not be shared with others. (Information Sharing: Guidance for practitioners and managers)
- Practitioners and managers can be said to have a 'confidential relationship' with families. Some families share information about themselves readily; staff need to check whether parents regard this information as confidential or not.
- Some parents sometimes share information about themselves with other parents as well as staff; the centre cannot be held responsible if information is shared beyond those parents whom the person has 'confided' in.
- Information shared between parents in a group is usually bound by a shared agreement that the information is confidential and not discussed outside of the group. The group leader is not responsible if that confidentiality is breached by group participants.
- Where third parties share information about an individual, practitioners and managers need to check if that is confidential, both in terms of the subject sharing the information and the person whom the information concerns.

- Information shared in the context of Alliance centres is confidential to the centre and, in defined circumstances, to the wider organisations. For example, a centre manager may discuss a family in a supervision meeting with an Area Manager for the purpose of professional support, clarification and accountability regarding the organisation's procedures. The Area Manager shares the detail of that information in prescribed circumstances as set out in the procedures.

### **Examples of confidential and not confidential information**

**Not confidential** - *Mrs.Cole discusses with staff and other mothers in the setting quite openly that she is divorcing her husband.*

**Confidential** – *Mrs Cole has experienced domestic violence and has confided in the manager and her daughter's key person that she has left her husband and is in a refuge.*

**Not confidential** – *Sasha is quite open about the fact that she once used injectable drugs and makes no attempt to hide old needle scars on her arms*

**Confidential** – *Sasha confides to her counsellor that she is HIV positive.*

**Not confidential** – *Matty and Sam now live with their dad.*

**Confidential** – *The reason is that Matty and Sam's mum has severe mental health problems and can no longer look after them.*

### **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.
- The impact is that it may put the person in danger or cause embarrassment or pain to that individual.
- It is not a breach of confidentiality if information was provided on the basis that it would be shared with a limited number of people, or where there was consent to the sharing.

### **Example**

*The staff at the centre are talking in the corridor about where the refuge is and that Mrs Cole and her daughter are there. A neighbour overhears and tells Mr Cole.*

*Sasha's counsellor calls the children's centre about a missed appointment and 'lets slip' that Sasha is HIV positive. The centre administrator tells the manager who tells the staff.*

*A member of staff tells another parent that they live with their dad because 'their mum is a bit of a nutter'.*

### **Exception**

- Confidential information may only be shared without authorisation from the person who provided it or to whom it relates if it is in the public interest. That is to prevent a crime from being committed or intervene where one may have been or to prevent harm to a child or adult.
- Sharing confidential information without consent is done only where not sharing it could be worse than the outcome of having shared it.
- The decision should never be made as an individual, but with the back up of managers, who can provide support, and sometimes ensure protection, through appropriate structures and procedures.

The three critical criteria 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.

### **Examples**

*The manager alerts social care to the fact that Mrs Cole told another parent her husband hit the children as well as her even though she denied it when asked.*

*Sasha's counsellor reports to the police that Sasha has told her that her partner is dealing drugs to young people around the local college and that he carries a gun.*

*Matty and Sam's dad has left the children in the care of another dad who is known to the nursery as a possible sexual abuser. The manager reports this to the family's social worker without letting their dad know first.*

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

- Centres are not obliged to report either suspected benefit fraud or tax evasion committed by clients; however, they are obliged to tell the truth if asked by an investigator.
- Parents who do confide that they are working 'a little part time job' while claiming should be told this and encouraged to check out their entitlements to benefits as they may be better off declaring earnings and not be at risk of prosecution.

## Consent

- When families choose to attend an Alliance children's centre they will share information about themselves and their families. They have a right to know that information they share will be regarded as confidential as well as be informed about the circumstances, and reasons, when centres are obliged to share information.
- Families have a right to be informed that their consent will be sought in most cases, as well as the kinds of circumstances when their consent may not be sought, or their refusal to give consent overridden.
- 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.

Consent may be **explicit** or **implicit**.

- **Explicit** - is obtained specifically at the start or involvement. It may be verbal but preferably in writing. If the proposed sharing is with a different agency or for a different purpose, the consent should be re-sought.
- **Implicit** - consent is implied if the context is such that sharing information is an intrinsic part of the service or has been explained and agreed at the outset.
- In settings, the policy on information is explained to parents or users of other services provided by the Alliance for whom this guidance is applicable.

## Separated parents

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

## Age for giving consent.

- A child should be able to have to capacity to understand why information is being shared and the implications of that. Therefore for most children under the age of eight in a childcare context, consent to share is sought from the parent.

- Young persons 16-19 years are capable of giving informed consent; where it may be the case that they are deemed not to have the capacity, someone with parental responsibility for that child must give the consent. If the child is deemed capable and gives consent, this may override the parent's wish not to consent.
- Vulnerable adults also must be deemed capable of giving or withholding consent to share information about them. In this case 'mental capacity' is defined in terms of the Mental Capacity Act 2005 Code of Practice. It is rare that this will apply in the context of Alliance provision.

**Ways in which consent to share information can occur throughout Alliance provision include:**

- Policies and procedures that set out the responsibility of the centre regarding gaining consent to share information and when it may not be sought or overridden.
- Information in parents' or other, leaflets about the centre or introductory leaflets.
- Notes on confidentiality on every form the parent signs
- Copies given to parents of the forms they sign
- Signature of parents on forms signed as consent to share information about additional needs.

**Decision making and recording for sharing information without consent to disclose**

The following questions are addressed and recorded in the family's file:

1. Is there legitimate purpose for sharing the information?
2. Does the information enable a living person to be identified?
3. Is the information confidential?
4. If the information is confidential, do you have consent to share?
5. Is there a statutory duty or court order to share information?
6. If consent is refused, or there are good reasons not to seek consent, is there sufficient public interest to share information?
7. If the decision is to share, are you sharing the right information appropriately and securely?