

# NURSERIES: Confidentiality and General Data Protection Regulation (GDPR) POLICY AND PROCEDURE

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## 1 INTRODUCTION

University Hospitals Sussex NHS Foundation Trust nurseries collect and use information about children, families, staff, students or others that come into contact with our nurseries.

The information which is gathered is to enable us to operate our service within University Hospitals Sussex NHS Foundation Trust and to meet the legal obligations with the Foundation Stage Statutory Framework, Ofsted, and Local Education Authority.

The purpose of this policy is to ensure that personal information is handled and stored correctly and securely and in accordance to the General Data Protection Regulation (GDPR) which came into force on the 25th May 2018.

## 2 POLICY STATEMENT

It is our intention to respect the privacy of children and their parents/carers, whilst ensuring that they access high quality early years care and education in our settings.

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.

All staff that works within our nurseries are obliged to adhere to University Hospitals Sussex Code of Conduct in respect of confidentiality.

## 3 GENERAL DATA PROTECTION REGULATIONS

The General Data Protection Regulation covers the management and control of personal information. GDPR will replace the Data protection Act 1998 and the Privacy & Electronic Communications Regulation 2003 and will increase the obligations that companies have regarding the personal data they hold and the rights of individuals.

### Definition of Personal Data

This is data which enables a person to identify another by:

- Name
- Postal address
- Telephone numbers
- Bank accounts and other personal financial accounts
- Photographs
- Health documents

In accordance with the GDPR it is UHSussex nurseries responsibility to ensure that all data processed must be lawful, fair and transparent;

- Collected for specified, explicit and legitimate purposes
- Minimal – adequate, relevant and limited to those which are necessary
- Information is accurate and kept up to date
- Stored for no longer than necessary and kept secure

ico.org.uk article 5

## **4 INFORMATION HELD BY THE NURSERIES**

In order to comply with the regulatory framework and inspectorates across the UK there is a large amount of data that needs to be maintained within the premises or archived within University Hospitals Sussex NHS Foundation Trust sites. Therefore some legal obligations stated within the EYFS Framework or Childcare Registration will override that stated within the GDPR and therefore do not need the consent to collect certain data from parents and children.

Documentation held relating to a child:

- Names and addresses of children, parents and carers
- Contact Details of parent, carers and emergency contacts
- Copies of Birth certificates or birth certificate/passport numbers
- Medical conditions
- Details of GP, Health Visitor, Social Worker of other health professionals
- Developmental records
- SEND information and plans
- Religious and Cultural beliefs
- Dietary Requirements
- Funding records i.e. EY Entitlement for 2, 3-4 years 15 & 30hrs free childcare
- Child Protection and Safeguarding Records
- Court Orders relating to the child
- Fee information to secure the child's place in the nursery

Documentation held relating to an employee, student or volunteer:

- Name and address
- Persons to contact in emergency i.e. unwell or accident at work
- DBS information
- Appraisals, supervisions, management plans including competency concerns or disciplinary records
- Sickness information
- Payroll information for example Maternity forms, changes of contract
- Local Authority Professional Profile Forms, CV details

The nurseries use this information for:

- Day to day provision of childcare
- Administration of service e.g. contractual and payment arrangement's
- Staff information, HR, Payroll, Safeguarding, CPD
- To be compliant with the Childcare Register

## 5 STORAGE OF RECORDS

- 5.1 Personal Records are stored within a locked drawer/filing cabinet and kept secure by the person in charge in an office or other suitable secure place. These records include registration and admission forms, signed consents, correspondence concerning the child or family, reports or minutes from meetings concerning the child from other agencies, an on-going 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.
- 5.2 Records of any child who receives extra support through outside agencies are kept strictly confidential between parents and carers, nursery manager/deputy manager and staff who work closely with that child.
- 5.3 Learning Journals and Curriculum Plans are usually kept within the playrooms and can be accessed and contributed to by staff, parents and carers. These include observations of children in the setting, samples of their work, summary developmental reports and records of achievement.
- 5.4 Individual photographs taken of the children through curriculum and observational purposes within the Early Years Foundation Stage will be placed in personal journals at the end of their nursery period, given to parent or carer or destroyed through confidential waste.
- 5.5 Photographs taken of children participating in nursery activities may be stored in the nursery after the child has left as ongoing evidence for Ofsted Inspections or part of historical nursery events.
- 5.6 We retain children's records for approximately 5 years after they have left the setting nurseries except records that relate to an accident or child protection matter, which are kept until a child reaches the age of 21 years or 24 years respectively. These are kept in a secure place
- 5.7 All information regarding Child Protection and Safeguarding concerns will be filed and remain confidential until the legal period of holding information expires. It will then be destroyed through confidential waste.
- 5.8 The nurseries collates and stores information either paper form or electronically. All paper copies of personal information i.e. contractual forms, admission information, family information and child protection/safeguarding documents are stored in locked filing cabinets in the office (later archived at Downsmeare, PRH). Children's Learning Journals are kept with a cupboard in the playroom. Information can be accessed by management and appropriate staff and, parents or carers on request.
- 5.9 Information such as payroll, nursery fees and staff HR information are stored electronically with all computers password connected. Computer shared drives are of approved management names only.

## 6 DATA RETENTION

UHSussex nurseries holds a great deal of information much of which is confidential.

The following retention schedule is in operation in both nurseries and when appropriate are archived. Timescales are based on Government, Ofsted and EYFS Framework requirements.

Children Information	Developmental Records	3 – 6 months after last day of attendance
	Admission Records Contractual Agreements Family Correspondence	Archive 5 yrs. after last day of attendance
	Feedback sheets and sleep charts	6 months unless stored in individual file if there is a concern
	Child Registers	2yr. unless stored in individual file if there is a concern. Electronic records of playroom allocations up to 5yrs.

Child protection and Safeguarding Information	Chronology of Significant Events Parental Responsibility Documents Court Orders Accident/Incident forms of concern	Current year plus 21 yrs. Archived once child leaves setting
	Concerns of an employee, volunteer behaviour	stored until retirement age or 10 years if longer
Personnel	Staff Files (application, appraisals)	6 years after employment ceases (archived)
	Staff Training Records	Within inspection cycle 3-4yrs
	Peer and Management observations	Within inspection cycle 3-4yrs
Business Records	Registration / Insurance Forms	Insurance Liability doc 40 yrs.
	Fees and Payroll Information	7 yrs. for HMRC records
	Early Years 2 yr. and 3-4 years Free Entitlement (funded 15 / 30hrs)	TBC by the Local Education Authority
	Accident, Incident, Medication Forms	3-4 yrs. from last inspection
	Warranty and Guarantees	5-10 yrs. dependent on T&C
	Complaints log	5 yrs.
	Food Safety records, cleaning audits	1 yr. or until next EH inspection
	Health & Safety Risk Assessments	1yr. Daily Risk Assessment Audits and Main Risk Assessments 3-4 yrs. from last inspection
Curriculum Planning (individual & Group)	Within inspection cycle 3-4yrs	

## 7 STAFF RESPONSIBILITIES

- 7.1 Any consultations with parents are conducted in a quiet, secluded room, avoiding any infringements of privacy of confidentiality.
- 7.2 Staff will not discuss personal information given by parents or carers with other members of staff, except where it affects the wellbeing of the child.
- 7.3 Ensuring staff, student and volunteer inductions include an awareness of the importance of confidentiality in the role of the key person. If staff breaches any confidentiality provisions, this may result in disciplinary action. Students on placement in the nursery are advised of our confidentiality policy and required to respect it.
- 7.4 Ensuring staff, students and volunteers are aware of and follow our social networking policy in relation to confidentiality.
- 7.5 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.
- 7.6 Ensuring issues concerning the employment of staff remains confidential to the people directly involved and those making HR decisions
- 7.7 All staffs are required to attend Information Governance Training with regard to Confidentiality and Data Protection.

## 8 DISCLOSURE OF INFORMATION

UHSussex nurseries disclose data held to the following parties:

- Parents and carers on request
- UHSussex NHS FT Finance department (nursery fees)
- UHSussex NHS FT Recruitment, Occupational Health, Human Resources and Payroll
- Health and Social Care Professionals and Police
- Local Education Authority ( example B&HCC, WSCC, ESCC)
- Local Safeguarding Children's Board (LSCB)
- HM Revenue and Customs
- Ofsted

## Safeguarding

In the event of a child protection concern the information about a child and their family may be shared with the relevant agencies without consent.

The Local Safeguarding Board states that information relating to any abuse including the risk of being drawn into extreme (Prevent Duty); concerns of sexual abuse including Female Genital Mutilation must be reported without informing the parent.

## **9 FREEDOM TO SPEAK UP (previously known as Whistle Blowing)**

Please refer to Trust Policy

- 9.1 'Freedom to Speak Up' encourages and enables employees to raise concerns within their workplace without fear of personal repercussions.
- 9.2 UHSussex nurseries are committed to deliver the highest possible standard of openness, probity and accountability. Alongside their commitment we expect nursery staff to raise any concerns they have regarding the practices within the setting or individuals.
- 9.3 Nursery staffs are usually the first to notice something which may be wrong in the setting involving the practice, conduct or management; however they may fear that speaking up is seen as disloyal to their colleagues, the nursery or potentially lead to victimisation or harassment.
- 9.4 All staff should voice their concerns to their line manager or the service manager at the earliest opportunity to enable any problems to be resolved as soon as possible.
- 9.5 In most cases, any concerns raised will proceed on a confidential basis.

## **10 DATA PROTECTION OFFICER (DPO)**

It is a requirement of the GDPR to have assigned a Data Protection Officer. In the case of University Hospitals Sussex NHS Foundation Trust organisation Mr Andrew Harvey (Head of Information Governance / Data Protection Officer) has been appointed however it is the responsibility of the Childcare Service Manager to ensure all relevant and compliant information is archived. The Wendy House and Sussex House Nursery Manager's will ensure that information for the daily operation of the service is stored correctly.

## **11 BREACH OF INFORMATION**

- 11.1 All electronic data is stored on I.T. equipment which is the property of University Hospitals Sussex NHS Foundation Trust.
- 11.2 The use of computers, laptops and USB sticks are password protected and have suitable secure software.
- 11.3 Personal files should not be removed from the premises unless archived, for purposes of Local Authority of Multi-Agency meetings or HR meetings if related to an employee.
- 11.4 A breach of confidentiality should be reported on the Trusts DATIX system
- 11.5 Accidental loss, destroying or sharing data without authorisation may be deemed a breach of protection and therefore must be reported to Mr Andrew Harvey (DPO) on 01903 205111 ext. 84508 or email [andrew.harvey7@nhs.net](mailto:andrew.harvey7@nhs.net) or the 'Information Commissioners Office' (helpline on 0303 123 1113). Website: <https://ico.org.uk/concerns>

## 12 ASSOCIATED POLICIES AND PROCEDURES

- UHSussex Nursery Arrival & Collection Policy
- UHSussex Nursery Safeguarding & Child Protection Policy

## 13 APPROVAL AND REVIEW DETAILS

Approval and Review	Details
Written Amendments 13/08/2021	<a href="#">Tracey Gregory, Childcare Services Manager</a>
Reviewed Amendments	
Next Review Date	April 2023

Approval and Amendment History	Details
Written 25/02/2020 GDPR Policy 13/04/2017 Confidentiality Policy	<a href="#">Tracey Gregory, Childcare Services Manager</a>
Notes	To merge both General Data Protection Regulation Policy with Confidentiality Policy 13/08/2021