**Section 2 – Data Protection**

Data Protection is the process of safeguarding important information that has been requested by relevant parties. It protects the privacy and integrity of data held on individuals by businesses and other organisations. The Data Protection Act 1998 states that any written information about a family and their child must be kept in a lockable place in a secure location. To provide a quality early years and childcare service and comply with legislation, early years settings will need to request information from parents about their child and family. Some of this will be personal data. The privacy of families and how information is processed will be in accordance with the General Data Protection Regulation (GDPR) 2018.

**In this section you will find the following policies and procedures:**

* [Data Protection Policy](#Data)
* [Privacy Notice](#privacy)
* [Confidentiality Policy](#confidentiality)
* [Information Sharing](#information)
* [Children’s records](#children)
* [Provider records](#provider)

**Data Protection Policy**

**Statement of Intent:**

We at Fenham Playgroup will ensure that in accordance with The Data Protection Act 1998 any written information about a family and their child will be kept in a lockable place in a secure location. Any files relating to you and your child that are kept on a computer will be password protected and any emails will be set over a secured site. This policy has been updated in line with General Data Protection Regulation (GDPR) 2018.

If any personal information is required to be shared by other agencies, we will ask for the permission of the parent/carer of a child to disclose this and any relevant information will only be passed onto other health professionals or relevant parties. However, if we feel that it is necessary and in the best interests of the child to disclose personal information without permission, we will override confidentiality to safeguard the welfare of the child by disclosing this information to health professionals and/or other agencies.

**Our Aim:**

To provide a quality early years and childcare service and comply with legislation, we will need to request information from parents about their child and family. Some of this will be personal data and some may be classed as special category data.

We take families’ privacy seriously, and in accordance with the Data Protection Act 2018 and the General Data Protection Regulation (GDPR), We will process any personal data according to the seven principles below:

1. We must have a lawful reason for collecting personal data, and we must do it in a fair and transparent way. We will be clear about what data we are collecting, and why.
2. We must only use the data for the reason it is initially obtained. This means that we may not use a person’s data inappropriately or to market a product or service to them that is unconnected to the reasons for which they shared the data with us in the first place, unless required to do so by law.
3. We must not collect any more data than is necessary. We will only collect the data we need in order to provide appropriate childcare services and abide by relevant laws.
4. We will ensure that the data is accurate and ask parents to check annually and confirm that the data held is still accurate.
5. We will not keep data any longer than needed. We must only keep the data for as long as is needed to complete the tasks it was collected for and in compliance with relevant laws.
6. We must protect the personal data. We are responsible for ensuring that we, and anyone else charged with using the data, processes and stores it securely.
7. We will be accountable for the data. This means that we will be able to show how we (and anyone working with us) are complying with the law.

We have registered with the Information Commissioner’s Office, the UK’s independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

We expect parents to keep private and confidential any sensitive information they may accidentally learn about Fenham Playgroup, any of the staff, their families or the other children and families attending, unless it is a child protection issue.

We will be asking parents for personal data about themselves and their child/ren to deliver a childcare service (see privacy notice). We are required to hold and use this personal data to comply with the statutory framework for the Early Years Foundation Stage, Ofsted, Department for Education and the local authority.

**Subject access:** Parents/carers and those with parental responsibility have the right to inspect records about their child at any time. This will be provided without delay and no later than one month after the request. Requests can be made verbally, and we will ensure we have received the correct information. We may need to check the identity of the person making the request if, for example, the request was made via an unknown email address. We will ask parents to regularly check that the data is correct and update it where necessary.

**Individual Rights:** The GDPR provides the following rights for individuals:

* The right to be informed.
* The right of access.
* The right to rectification.
* The right to erasure.
* The right to restrict processing.
* The right to data portability.
* The right to object.
* Rights in relation to automated decision making and profiling.

**Storage:** We will keep all paper-based records about children and their families securely locked away in a secure filing cabinet which is in the office. The office is securely locked every day*.* We make sure keys are also securely stored.

If we keep records relating to individual children, families or anyone working at Fenham Playgroup, including in a digital format, such as on a computer or smartphone, externally or in cloud storage such as iCloud, Google Drive or Dropbox, including digital photos or videos, we will obtain parents’ permission. We will ensure any external or cloud-based services have adequate security around the data. This also includes CCTV. We will store the information securely, for example, in password-protected files, to prevent viewing of the information by others with access to the computer or device.

Backup files will be stored on the Playgroup laptop*,* which will be locked away when not being used. Firewall and virus protection software are in place.

If we store any records using a digital solution, we will ensure we have carried out due diligence to ensure they are compliant with GDPR. If we use any external providers who process data for us, we will make sure they have proper contracts in place that comply with GDPR.

**Information sharing:** We are expected to share information with other childcare providers if a child also attends another setting.

We are also required to share information with Newcastle City Council regarding the childcare and early years entitlements.

In some cases, we may need to share information without parents’ consent, for example, if there is a child protection concern, criminal or tax investigations, health and safety reports etc.

Ofsted may require access to our records at any time.

**Record keeping:** We record all accidents in an accident book. These are then listed on the Playgroup laptop.

We will notify Morton Michel of any accidents which may result in an insurance claim, e.g., an accident resulting in a doctor or hospital visit. PACEY will log and acknowledge receipt of the correspondence and forward the information to the company providing our public liability insurance policy to enable a claim number to be allocated.

We will inform Ofsted and the local child protection agency and the Health and Safety Executive of any significant injuries, accidents, or deaths as soon as possible.

We record all significant incidents in an incident book, which is the recorded on the Playgroup laptop. We will share these with parents so that together we can work to resolve any issues.

We will only share information without your prior permission if it is in a child’s best interests to do so. For example, in a medical emergency we will share medical information with a healthcare professional. If we are worried about a child’s welfare, we have a duty of care to follow our Safeguarding Partnership procedures and make a referral. Where possible we will discuss concerns with you before making a referral.

**Safe disposal of data:** We are required by law to keep some data for some time after a child has left the setting. We have a review plan in place and ensure that any data is disposed of appropriately and securely. Safe disposal of paper would be with the use of a crosscut shredder. Any IT hardware is securely disposed of.

**Suspected breach:** We will investigate any suspected breaches and take prompt action to correct any areas of concern. If we suspect that data has been accessed unlawfully, we will inform the relevant parties immediately and report to the Information Commissioner’s Office within 72 hours. We will keep a record of any data breach.

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| Date policy was written: | 31st December 2020 |
| This policy is due for review  on the following date: | 31st August 2021 |

**This policy supports the following requirements and standards:**

**England**Meeting Early Years Foundation Stage Safeguarding and Welfare Requirements Information and records.

**Privacy Notice**

We take your privacy seriously and, in accordance with the General Data Protection Regulation (GDPR), we will commit to the following:

We will be asking you for personal data about you and your child to deliver a childcare service to you. We must have a legal basis for collecting this data, and there are six lawful bases:

1. **Consent:** The individual has given clear consent for you to process their personal data for a specific purpose.
2. **Contract:** The processing is necessary for a contract you have with the individual, or because they have asked you to take specific steps before entering a contract.
3. **Legal obligation:** The processing is necessary for you to comply with the law (not including contractual obligations).
4. **Vital interests:** The processing is necessary to protect someone’s life.
5. **Public task:** The processing is necessary for you to perform a task in the public interest or for your official functions, and the task or function has a clear basis in law.
6. **Legitimate interests:** The processing is necessary for your legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual’s personal data which overrides those legitimate interests. (This cannot apply if you are a public authority processing data to perform your official tasks.)

Where we require consent, we will provide a way for you to positively decide about the information that you make available and how this is shared.

This information will be collected by the manager as part of the child’s induction to the setting. We will be asking for this data verbally at our initial meeting and recording it on paper forms/digitally. We will ask for this information at regular intervals to ensure it is up to date. We will do this by asking you to complete and return a data form.

The information that we require will be:

* Child’s name.
* Child’s date of birth.
* Child’s age.
* Child’s address.
* Parents’ names, addresses, contact numbers.
* Who has parental responsibility for the child?
* Emergency contact names, addresses, and contact number.
* Home language.
* Child and/or parents’ National Insurance number.

The following are classed as “special category data” and we must therefore ensure that we meet one or more of the conditions of Article 9 of GDPR as well as the legal bases above:

* Child’s doctor’s name and contact number.
* Health clinic/Health visitor.
* Child’s NHS number.
* Any allergies/medical history/ requirements.
* Information about immunisations.
* Whether the child has any special educational needs or disabilities.
* Ethnic group.
* Religion.

We are required to hold and use this personal data to comply with the statutory framework of England, Ofsted, the Department for Education, and our local authority early years team. It will also include photographs, video, or audio recordings of the child. This data will be used to:

* support your child’s development.
* monitor and report on your child’s progress.
* share information about activities in our setting.
* contact named people in an emergency.
* share with other professionals in accordance with legislation.
* ensure a contract of service is delivered and maintained.
* ensure that this setting receives the statutory funding for which it is eligible.

**This data may be, when necessary, shared with:**

* Other professionals supporting your child, for example health visitor, pre-school, nursery, school, other health or education professional.
* Our local authority through the Free Childcare and Early Education Entitlement headcount and annual Early Years Census (England).
* Our local authority for the purposes of funded services that they support.
* Ofsted.

If you want to see a copy of the information we hold and share about you or your child, then please contact the playgroup management.

We are required by law to keep some information about your child for a period after a child has left the setting. We will keep a record of this and dispose securely at the correct time.

**Please see our data protection policy and confidentiality policy for further information on data sharing, safe storage, and your rights to access your data.**

**(This privacy notice was created by Pacey)**

**Confidentiality Policy**

Confidentiality is very important to Fenham Playgroup. All personal information about your child will be kept in a secure location and we will not disclose any personal information with others regarding you and your child, unless it is in the child’s best interest to do so. Any information relating to our business arrangements will also be treated as confidential.

**Statement of Intent:**

Definition: ‘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)

**Our Aim:**

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; means of storing and sharing that information take place within the framework of the Data Protection Act and Human Rights Act.

**Methods:** To ensure that all those using - and working in – our setting can do so with confidence; we respect confidentiality in the following ways.

**Confidentiality procedure:**

* We always check whether parents regard the information they share with us to be regarded as confidential or not.
* Some parents sometimes 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.
* We inform parents when we need to record confidential information beyond the general personal information we keep (see our record keeping procedures) – for example regarding 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, any contact and correspondence with external agencies in relation to their child.
* We keep all records securely (see our record keeping procedures).
* Parents have access to the files and records of their own children but do not have access to information about any other child.
* Staff induction (including student or volunteer) includes an awareness of the importance of confidentiality in the role of the key person and all staff personnel and students sign to agree by the terms and conditions of the Confidentiality Policy.
* Children’s full names are never on displays or on show around the nursery.

All the understandings above are subject to the paramount commitment of the setting, which is to the safety and well-being of the child. Please also see our policy on child protection.

**Legal framework:**

* Data Protection Act 2018
* Human Rights Act 1998
* GDPR 2018

**Further guidance:**

* Information Sharing: Practitioners’ Guide (HMG 2006)
* Data protection (GDPR 2018)

**Information Sharing Policy**

**Statement of Intent:**

We recognise that parents 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 we are obliged to share information.

**Our Aim:**

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. That is when:

* 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
* 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 the manager. 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.

**Procedures:**

Our procedure is based on the 7 golden rules for information sharing as set out in *Information Sharing: Guidance for Practitioners and Managers (DCSF 2008)*

1. Remember that the Data Protection Act is not a barrier to sharing information but provides a framework to ensure that personal information about living persons is shared appropriately.

* Our policy and procedures on information sharing provide guidance to appropriate sharing of information with external agencies.

1. Be open and honest. Explain to families how, when, and why information will be shared about them and with whom. Seek consent to share information unless it puts the child at risk or undermines a criminal investigation.

In our setting we ensure parents:

* Have information about Information Sharing Policy, Safeguarding Children and Child Protection Policy.
* Have information about the circumstances when information will be shared with external agencies, for example, regarding any special needs the child may have or transition to school.

1. Seek advice when there are doubts about possible significant harm to a child or others.
2. Share with consent where appropriate. Respect the wishes of children and parents not to consent to share confidential information. However, in the interests of the child, know when it is reasonable to override their wish. Guidelines of consent are part of this procedure.
3. The Manager is conversant with this and can advise staff accordingly. Consider the safety and welfare of the child when deciding about sharing information – if there are concerns regarding ‘significant harm’ the child’s wellbeing and safety is paramount.

In our setting we:

* Record concerns and discuss these with the setting’s designated person for child protection matters. Record decisions made and the reasons why information will be shared and to whom; and
* Follow the procedures for reporting concerns and record keeping.

1. Information shared should be accurate and up-to-date, necessary for the purpose it is being shared for, shared only with those who need to know and shared securely.

Our Child Protection procedure and Record Keeping procedure set out how and where information should be recorded and what information should be shared with another agency when making a referral.

1. Reasons for decisions to share information, or not, are recorded. Provision for this is set out in our Record Keeping procedure.

**Consent:** Parents have a right to be informed that their consent to share information 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 may be overridden.

We do this as follows:

* Our policies and procedures set out our responsibility regarding gaining consent to share information and when it may not be sought or overridden.
* We may cover this verbally when the child starts or include this in our prospectus.
* Parents sign a contract when a child starts the setting to say they understand our policies and procedures including information sharing policy.
* Copies are given to parents on request of the contract they sign.

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 also see our Safeguarding Children – Child Protection policy.

**Children’s Record Policy**

**Statement of intent:**

There are record keeping systems in place that meet legal requirements; means of storing and sharing that information take place within the framework of the Data Protection Act and the Human Rights Act. This policy and procedure is taken in conjunction with the Confidentiality and Client Access to Records policy and Information Sharing policy.

**Procedures:**

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

* *Developmental records:* 
  + These include observations of children in the setting, photographs, video clips and samples of their work and summary developmental reports.
  + These are usually kept in the office and can be freely accessed, and contributed to, by staff and the child’s parents (upon request).
* *Personal records:* 
  + These include registration and admission forms, signed consent forms, 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.
  + These confidential records are stored in a lockable file or cabinet and are kept secure by the manager/deputy in the office.
  + Parents have access with appointment 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. We retain children’s records for a number of years after they have left the setting. These are kept in a secure place.
* *Other records:* 
  + We keep a daily record of the names of the children we are caring for, their hours of attendance and the names of their key person.
  + Issues to do with the employment of staff, whether paid or unpaid, remain confidential to the people directly involved with making personnel decisions.

**Provider Record Policy**

**Statement of intent:**

We keep records and documentation for the purpose of maintaining our business.

These include:

* Records pertaining to our registration.
* Landlord/lease documents and other contractual documentation pertaining to amenities, services, and goods.
* Financial records pertaining to income and expenditure.
* Risk assessments.
* Employment records of staff including their name, home address and telephone number.
* Name, address, and telephone number of anyone else who is regularly in unsupervised contact with the children.

Our records are regarded as confidential based on sensitivity of information, such as regarding employment records and these are maintained regarding the framework of the Data Protection Act and the Human Rights Act.

This policy and procedure is in conjunction with the Confidentiality and Client Access to Records policy and Information Sharing policy.

**Procedures:**

* All records are the responsibility of the management who ensure they are kept securely.
* All records are kept in an orderly way in files and filing is kept up to date.
* Health and safety records are maintained; these include risk assessments, details of checks or inspections and guidance etc.
* Our Ofsted registration certificate is displayed.
* Our Public Liability insurance certificate is displayed.
* All our employment and staff records are kept securely and confidentially.
* We notify Ofsted of any change:
  + In the address of the premises.
  + To the premises which may affect the space available to us.
  + To the name and address of the provider, or the provider’s contact information.
  + To the person managing the provision.
  + Any significant event which is likely to affect our suitability to look after children.
  + Any other event as detailed in the Early Years Foundation Stage.

**Legal framework:**

* Data Protection Act 2018
* Human Rights Act 1998
* Children Act 1989