



# Briary Pre-School

*'Together we play learn and achieve'*

## **Confidentiality Policy and General Data Protection (GDPR)**

Confidentiality is essential to ensure the safety and well being of children.

All employees working in Briary Pre-School are bound by a legal duty of confidence to protect personal Information they may meet during their employment. This is not just a requirement of their contractual responsibilities but also a requirement within the Data Protection Act 2018.

Briary Pre-School will always endeavor to maintain and secure records of children and their families in accordance with EYFS Welfare Requirements and Data Protection Act 1998.

### **Data Protection Act 2018**

The Data Protection Act (1998) is the legislation that provides a framework that governs the processing of information that identifies living individuals – personal data in Data Protection terms. Processing includes holding, obtaining, recording, using and disclosing of information and the Act applies to all forms of media, including paper and images. It applies to confidential information but is far wider in its scope, e.g. it also covers staff records. The Act identifies eight Data Protection Principles that set out standards for information handling and sets the foundations for personal data to be:

1. Processed fairly and lawfully
2. Processed for specified purposes
3. Adequate, relevant and not excessive
4. Accurate and kept up to date
5. Not kept for longer than necessary
6. Processed in accordance with the rights of data subjects
7. Protected by appropriate security (practical and organisational)
8. Not transferred outside the EEA without adequate protection

### **Human Rights Act 1998**

Article 8 of the Human Rights Act (1998) establishes a right to 'respect for private and family life'. This underscores the duty to protect the privacy of individuals and preserve the confidentiality of their health records. Current understanding is that compliance with the Data Protection Act (1998) and the common law of confidentiality should satisfy Human Rights requirements. There is also a more general requirement that actions that interfere with the right to respect for private and family life (e.g. disclosing confidential information) must also be justified as being necessary to support legitimate aims and be proportionate to the need.

Personally, identifiable information which can potentially be used to uniquely identify, contact, or locate a single person must always remain confidential.

This information includes:

- Name, address, full post code, date of birth,
- G.P Details
- Photographs, videos, audio recordings or other images of service users
- Anything else that may be used to identify the child or parent

A Definition of **GDPR (General Data Protection Regulation)** The **General Data Protection Regulation (GDPR)**, agreed upon by the European Parliament and Council in April 2016, will replace the Data Protection Directive 95/46/ec in Spring **2018** as the primary law regulating how companies protect EU citizens' personal data. 19 Sep 2018.

### **The Eight DPA Principles**

- Fairly and lawfully processed.
- Processed for limited purposes.
- Adequate, relevant and not excessive.
- Accurate.
- Not kept for longer than is necessary.
- Processed in line with your rights.
- Secure.
- Not transferred to other countries without adequate protection

### **Disclosure without Consent**

There are **only three exceptional areas** for a manager with capacity may disclose information without consent. These are where:

- Statute law requires,
- There is a court order,
- Disclosure may be necessary in the public interest where a failure to disclose information may expose others to risk of death or serious harm.

Staff must always consider the safety and welfare of a child or young person when making decisions on whether to share information about them. Where there is concern that the child may be suffering or is at risk of suffering significant harm, the child's safety and welfare must be the overriding consideration. Staff should, where possible, respect the wishes of children, young persons or families who do not consent to share confidential information. Staff should seek advice where they are in doubt, especially where the doubt relates to a concern about possible significant harm to a child or serious harm to others.

Staff should ensure that the information they share is accurate and up-to date, necessary for the purpose, shared only with those people who need to see it, and shared securely.

Confidentiality must always be applied by members of staff (including students and volunteers) unless to do so would cause harm or endanger the child or staff member.

If any member or staff/student or volunteer, is approached by anyone requesting disclosure of information in respect of the child/parent/carer, must report this to the pre-school manager immediately.

Confidentially should not be breached via social network sites any staff in breach of this could face disciplinary actions, which may include dismissal.

Any abuse of any member of the community reported must be recorded and dealt with immediately.

Staff are not permitted to discuss children, staff or parents when using these sites at home for personal use.

Children and staff records are kept in a locked filing cabinet.

Staff are not permitted to discuss any confidential aspect of pre-school life outside the setting and visitors are unable to access any of the children's information.

Children's developmental files are accessible to parents.

Any member of staff or student found breaching this policy may be liable to disciplinary action, which may include dismissal. All staff, whether permanent, temporary or contracted, including students, contractors and volunteers must ensure they comply with the requirements of this policy, including any procedures and guidelines which may be issued.