

Low Farm Therapy Centre Data Protection, Information Sharing and Privacy Notice

Written by Ruth Lo October 2015

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Low Farm Therapy Centre (hereafter referred to as 'the Centre') collects and uses personal information about staff, children, parents and other individuals who come into contact with the Centre. This information is gathered in order to enable the Centre to provide therapy and other associated functions. In addition, there may be a legal requirement to collect and use information to ensure that the Centre complies with its statutory obligations. All staff involved with the collection, processing and disclosure of personal data will be aware of their duties and responsibilities by adhering to these guidelines. Personal information or data is defined as data which relates to a living individual who can be identified from that data, or other information held. Lo and Lo Education, and the trading name Low Farm Therapy Centre, are registered with the Independent Commissioners Office. Ruth Lo acts as the data controller/ data protection officer with ultimate responsibility for the data.

The Centre recognises the importance of information sharing in supporting our work with children. However, we understand that it is important that children and their families can be confident that their personal information is kept safe and secure and that we maintain their privacy whilst sharing information when necessary.

This policy is intended to ensure that personal information is dealt with correctly and securely and in accordance with the General Data Protection Regulations, Data Protection Act 1998, and other related legislation. It will apply to information regardless of the way it is collected, used, recorded, stored and destroyed, and irrespective of whether it is held in paper files or electronically. This policy also relates to information sharing within the Centre and with outside agencies. Our procedures in relation to sharing information with regard to safeguarding are detailed in our Safeguarding and Child Protection Policy.

Data Protection Principles

The Data Protection Act 1998 establishes eight enforceable principles that must be adhered to at all times:

1. Personal data shall be processed fairly and lawfully;
2. Personal data shall be obtained only for one or more specified and lawful purposes;
3. Personal data shall be adequate, relevant and not excessive;
4. Personal data shall be accurate and where necessary, kept up to date;
5. Personal data processed for any purpose shall not be kept for longer than is necessary for that purpose or those purposes;
6. Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act 1998;
7. Personal data shall be kept secure i.e. protected by an appropriate degree of security;

8. Personal data shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of data protection.

The Centre is committed to maintaining the above principles at all times. Therefore it will:

- Inform individuals why the information is being collected when it is collected
- Inform individuals when their information is shared, and why and with whom it was shared
- Check the quality and the accuracy of the information it holds
- Ensure that information is not retained for longer than is necessary
- Ensure that when obsolete information is destroyed that it is done so appropriately and securely
- Ensure that clear and robust safeguards are in place to protect personal information from loss, theft and unauthorised disclosure, irrespective of the format in which it is recorded
- Share information with others only when it is legally appropriate to do so
- Set out procedures to ensure compliance with the duty to respond to requests for access to personal information, known as Subject Access Requests
- Ensure staff are aware of and understand policies and procedures

Client documentation storage and sharing within the Centre

- All confidential documentation will be kept in a locked, secure storage facility in the office, stored in password protected computer files and/or on Writeupp.
- All members of staff are required to sign a confidentiality agreement when they join the Centre.
- Documentation that is to be discarded should be shredded.

Sharing information with outside agencies

From time to time, the Centre may be required to share information about children with outside agencies. This may be, for example, in connection to their transition to an educational establishment or to access support from other services, such as Child and Adolescent Mental Health Services. Procedures for sharing information with the Social Care Team are outlined in our Safeguarding and Child Protection Policy.

In such cases, the Centre follows the guidance provided in:

'Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers' (HMG March 2015).

We decide whether to share personal information on a case-by-case basis, applying the seven 'Golden Rules' in the guidance:

1. Remember that the Data Protection Act 1998 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.

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.
3. Seek advice from other practitioners if you are in any doubt about sharing the information concerned, without disclosing the identity of the individual where possible.
4. Share with informed consent where appropriate and, where possible, respect the wishes of those who do not consent to share confidential information. You may still share information without consent if, in your judgement, there is good reason 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 certain of the basis upon which you are doing so. Where you have consent, be mindful that an individual might not expect information to be shared.
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.
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 (see principles).
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.

Decision making follows the procedure outlined in the flowchart in Appendix A.

Information sharing procedure:

When the Centre has decided to share information, and has had the necessary consent, the following procedure is followed to ensure that it is only received and read by the intended recipient(s):

- Check with the agency to establish which named person will receive the information. Alert the recipient to the proposed method of communication and the expected timing.
- Information may be shared directly with the named recipient over the telephone.
- Material travelling by post should be securely packed and marked “Confidential” and sent by Recorded Delivery. A receipt of postage should be retained.
- E-mails should include a rider requesting contact should the email be misdirected and marked “Confidential - For Addressee Only”. “Read receipts” should be kept as evidence as these are acceptable evidence that an e mail has been received and read by the intended recipient. When emailed, documents should be attached as PDF files to prevent alterations being made.
- Where the transport of confidential documentation is required, such material should not leave the therapist’s person.

Retention of Client Records after Discharge.

The Limitation Act 1980 gives the limitation period in which claims must be made. As a general rule a claim cannot be made more than 6 years from the date on which the claimant’s cause of action

accrued. The time will run either from when it happened, or from the date of knowledge. The Department of Health recommends that health records should be kept for a minimum of eight years, and Low Farm Therapy Centre follows this guidance, with exemptions as detailed below:

- **Children:** Based on the fact that a child gains legal capacity from the age of 18, children's records should be kept until the child's 26th birthday.
- **People under a disability:** Whether children or adults, a person under a disability has no time limit on when they can instigate legal proceedings and so their records must be retained for eight years after the person is no longer under a disability. If the person remains under a disability for life, then all records should be retained for life and then eight years after their death. This is based on capacity, and the fact that a client with a disability may not have the capacity to understand that they could instigate legal proceedings, but at any time an advocate could identify a past issue and support them to instigate legal proceedings.

Archived case notes in both paper or electronic form will still be kept in a safe and secure space. In the event of the therapist's mental incapacity, notes on active cases will be handed on to a colleague. As no action can be taken against a deceased person, records can be disposed of in the case of a therapist's death.

Subject Access Requests

Low Farm Nursery and Therapy Centre's procedures for responding to subject access requests made under the Data Protection Act 1998:

Rights of access to information

Under the Data Protection Act 1998 any individual has the right to make a request to access the personal information held about them.

These procedures relate to subject access requests made under the Data Protection Act 1998.

Actioning a subject access request

1. Requests for information must be made in writing; which includes email, and be addressed to the Head of Centre. If the initial request does not clearly identify the information required, then further enquiries will be made.
2. The identity of the requestor must be established before the disclosure of any information, and checks should also be carried out regarding proof of relationship to the child. Evidence of identity can be established by requesting production of:
 - Passport
 - Driving license
 - Utility bills with the current address
 - Birth / Marriage certificate
 - P45/P60
 - Credit Card or Mortgage statement

This list is not exhaustive.

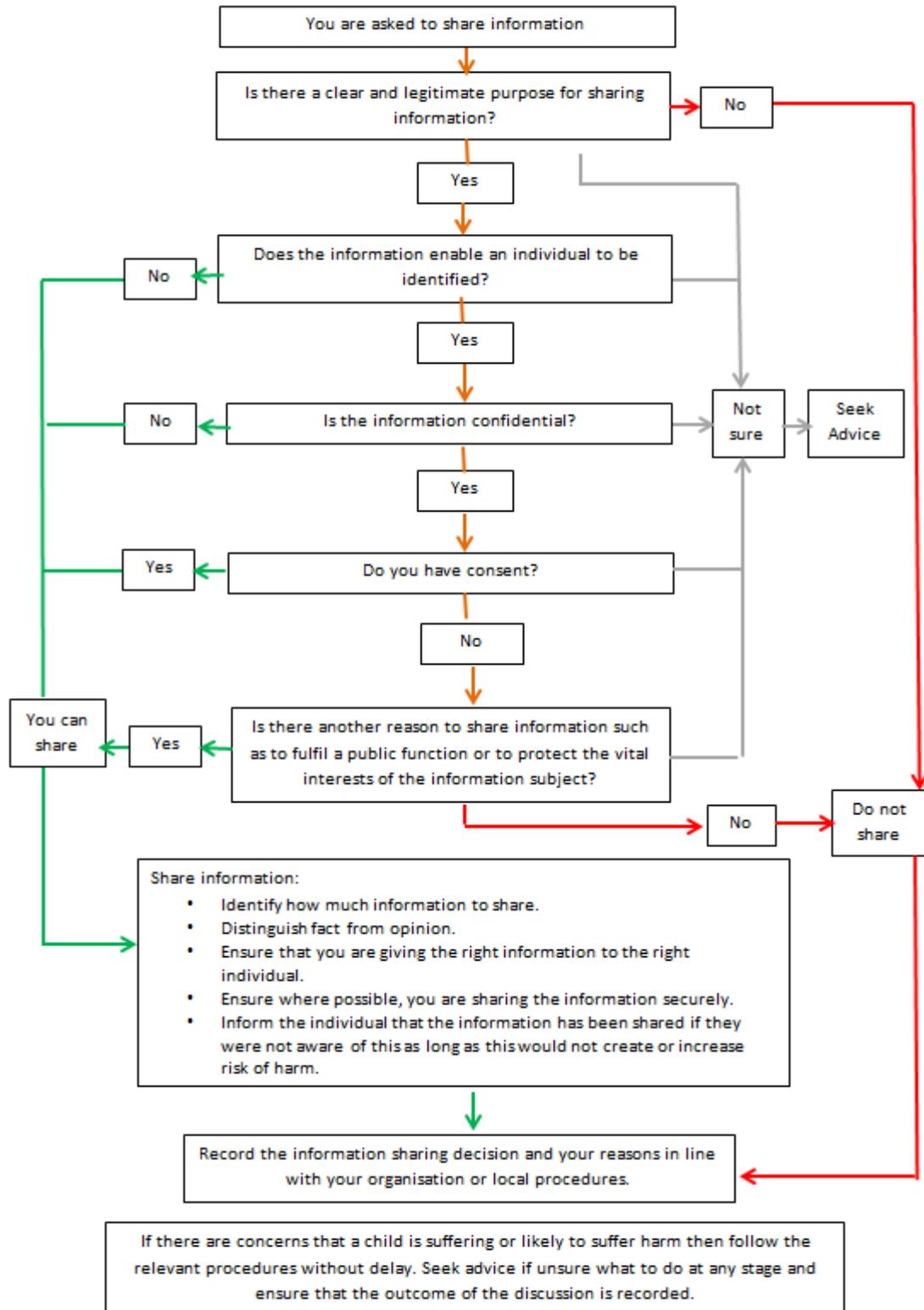
3. Any individual has the right of access to information held about them. However, with children this is dependent upon their capacity to understand (normally age 12 or above) and the nature of the request. The Head of Centre should discuss the request with the child and take their views into account when making a decision. A child with competency to understand can refuse to consent to the request for their records. Where the child is not deemed to be competent an individual with parental responsibility or guardian shall make the decision on behalf of the child.
4. The response time for subject access requests, once officially received, is 30 days (not working or school days but calendar days, irrespective of school holiday periods). However the 40 days will not commence until after clarification of information sought.
5. The Data Protection Act 1998 allows exemptions as to the provision of some information; therefore all information will be reviewed prior to disclosure.
6. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care Professional or school. Before disclosing third party information consent should normally be obtained. There is still a need to adhere to the 40 day statutory timescale.
7. Any information which may cause serious harm to the physical or mental health or emotional condition of the child or another should not be disclosed, nor should information that would reveal that the child is at risk of abuse, or information relating to court proceedings.
8. If there are concerns over the disclosure of information then additional advice should be sought.
9. Where redaction (information blacked out/removed) has taken place then a full copy of the information provided should be retained in order to establish, if a complaint is made, what was redacted and why.
10. Information disclosed should be clear, thus any codes or technical terms will need to be clarified and explained. If information contained within the disclosure is difficult to read or illegible, then it should be retyped.
11. Information can be provided on the premises with a member of staff on hand to help and explain matters if requested, or provided at face to face handover. The views of the applicant should be taken into account when considering the method of delivery. If postal systems have to be used then registered/recorded mail must be used.

Complaints

Complaints about the above procedures should be made to the Head of Centre who will decide whether it is appropriate for the complaint to be dealt with in accordance with the Centre's Complaint Procedure.

Complaints which are not appropriate to be dealt with through the Complaints Procedure can be dealt with by the Information Commissioner. Contact details of both will be provided with the disclosure information. Further advice and information can be obtained from the Information Commissioner's Office, www.ico.gov.uk

Appendix A: Flowchart for decisions regarding Information Sharing with Outside Agencies.



Privacy Notice

Collection of personal information

Information about your child may be collected via spoken or written information from parents/carers. With parental consent, information may also be collected from other professionals working with your child (such as teachers, nursery staff, childminders, NHS Speech and Language Therapist). We may also collect information about family members where this relates to your child e.g. contact details for parents and relevant medical or developmental history.

You may use the Low Farm Therapy Centre website, and to view the Low Farm Facebook page, without providing any personal information. However, if you wish to make an enquiry via the website or Facebook Messenger, you may be requested to provide relevant contact details, such as your name, e-mail address and contact telephone number to enable us to respond to your enquiry. You may also add comments or queries which might also contain personal information.

If your enquiry does not result in your child being seen by the Centre then this personal information will be deleted once your enquiry has been dealt with. If your child is subsequently seen by the Centre these details may be added to their personal record.

The website contains links to other Internet sites which are outside our control and are not covered by this privacy policy. We are not responsible for data which you provide through any such linked websites.

Our use of personal information

Personal information collected by us via the Centre website, email, telephone or face to face, is stored and used by us for the purpose of delivering your child's therapy. Any sensitive personal details are stored in a secure and confidential system, processed in confidence by the Centre and shall only be used for the purposes of delivering appropriate therapy services to your child. With your consent, information about your needs will be shared with other professionals involved in your child's care, when it is in your child's best interests. A record of your consent is kept within your child's case notes. Unless we are required to do so by law, we will not disclose any personal information collected to any person other than as set out above.

We do not employ agents to process personal data, for example specialist mailing companies to send out communications.

We do not give or sell client details to any third parties.

How we use personal information

We use this information:

- To prepare, plan and provide therapy services appropriate for your child's needs
- To communicate with you via post, email, telephone, mobile messages and SMS in relation to: - confirming and preparing for appointments - general communication in between appointments - sending you reports and programmes for your child (always password protected) - copying you in to communications with other professionals involved with your child (your child's initials rather than full name will be used in emails) - sending you resources - sending you invoices and receipts- sending you information regarding other services that may be relevant to your child (for example holiday activities).

- For clinical audit to assess and improve our service. Results of audits are always presented with all client identities removed.
- For management and administration, including accounts.

Whenever personal identifiers are not needed for these tasks, if possible we remove them from the information we use.

How we store personal information

All information about you, your child and their therapy is stored securely in our systems to ensure that we have a complete record of our service to them. We use a secure electronic cloud-based system called "WriteUp" which is compliant with general data protection regulations. Prior to being uploaded to this system, or if not compliant with upload to writeup, documents are stored on a OneDrive cloud-based system which is only accessible via a password held by Ruth Lo. Any paper based confidential information such as assessments are stored securely in accordance with Data Protection Regulations.

Videos may be taken of clients with parental consent. These are temporarily stored on an encrypted and password protected tablet or laptop. These may then be viewed by the therapist in order to make notes in a client record within 24 hours of the child's appointment. The video is then uploaded to the computer (if required for further reference/comparison) and deleted from the device.

The minimum amount of confidential information will be taken out of the Speech and Language Therapist's office base. When your child's information is taken out of the office base it will be kept with the Centre Therapist or will be locked in the boot of the Speech and Language Therapist's car (whichever is deemed to be the most secure at that time).

In accordance with law, all records will be kept securely until your child is 25 years old. After this time all records relating to your child will be destroyed.

Meeting our professional obligations

It is a legal requirement for all Speech and Language Therapists to be registered with the Health and Care Professions Council (HCPC). The HCPC has clear standards of conduct, performance and ethics that all registrants must adhere to.

These standards affect the way in which we process and share information. Specifically:

Standard 2: Communicate appropriately and effectively

"You must share relevant information, where appropriate, with colleagues involved in the care, treatment or other services provided to a service user."

Standard 10: Keep records of your work

"You must keep full, clear, and accurate records for everyone you care for, treat, or provide other services to. You must complete all records promptly and as soon as possible after providing care, treatment or other services. You must keep records secure by protecting them from loss, damage or inappropriate access."

For further information the full document can be found at: <http://www.hcpc-uk.org/assets/documents/10004EDFStandardsofconduct,performanceandethics.pdf>

UK Data Protection Law and EU General Data Protection Regulations

Data Protection Law lays down wide-ranging rules, backed up by criminal sanctions, for the processing of information about identifiable, living individuals. It also gives individuals certain rights in relation to personal data held about them by others. Lo and Lo Education, and Low Farm Therapy Centre, are registered as a Data Controller with the Independent Commissioners Office.

Our lawful basis for processing personal information

Our lawful basis for processing and storing personal information prior to a child being seen for assessment or therapy is 'Legitimate Interest' as this information is required in order to provide the initial consultation. However, once your child has been seen by one of our therapists and a record has been made it is one of 'Legal Obligation' (under article 6 of GDPR). We cannot adequately deliver a service to your child without processing their personal information and are required by law (Health Act 1999) and through our professional bodies to hold this information.

Data relating to an individual's health is classified as 'Special Category Data' under section 9 of the GDPR. The regulations specify that health professionals who are "legally bound to professional secrecy" may have a lawful basis for processing this data. Speech and Language Therapists are legally bound to keep client information confidential and it is under this condition that we process and store personal information.

Our records on individual children must be kept until after the child's 25th birthday (or 26th birthday if 17 at conclusion of their treatment) and therefore the right to deletion of records is lost.

Our responsibilities

We are committed to maintaining the security and confidentiality of your child's record. We actively implement security measures to ensure their information is safe, and audit these regularly.

We will not release your personal details to any third party without first seeking your consent, unless this is allowed for or required by law.

We are constantly working to ensure compliance with current data protection regulation.

Your rights

Data protection legislation gives you, the parent, various rights. The most important of these are as follows:

- You have the right to a copy of information we hold about your child.
- You have the right to ask for your record to be amended if you believe that it is wrong.

Data Breach:

Our DPO will notify the relevant parties in writing within 24 hours of any suspected data breaches.

- In the instance of a data breach regarding school information, the head teacher will be notified
- In the instance of a data breach regarding a child, the parent or legal guardian will be notified