

Policy 14

General Data Protection Regulations E.U. 2018 and Data Protection Act UK 2018

Policy.

Update: February 2021

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Section1:

What is the specific information about this Policy?

Are any other Policies relevant to this Policy?

These Policies are relevant:

- Staffing Policy - Policy 1
- Organisation Policy – Policy 2
- Parent Partnership Policy - Policy 12
- Safeguarding Policy - Policy 13
- Whistleblowing Policy - Policy13 a
- E-Safety Policy - Policy 13 b

What are the Legal requirements?

- We follow the legal requirements set out in the Statutory Framework for the Early Years Foundation Stage (EYFS) 2017 and accompanying regulations about the information we must hold about registered children and their families and the staff working at the nursery
- We follow the requirements of the General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR), Data Protection Act 2018 and the Freedom of Information Act 2000 with regard to the storage of data and access to it.

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What is the status of this Policy now that the UK has left the EU?

The status of this policy remains the same. This is because the UK Data Protection Act 2018 enshrined the EU Law and the GHDP. As the Nursery is UK based and buys products within the UK the changes in regulations affect the Nursery indirectly when suppliers ship products to the UK for sale within the UK. The UK is in the transition period which ends 6 months after leaving the EU. If necessary, the Nursery will review this Policy at that time. Further information can be found here: <https://ico.org.uk/for-organisations/dp-at-the-end-of-the-transition-period/information-rights-at-the-end-of-the-transition-period-frequently-asked-questions/#deal>

Who does this policy apply to?

This policy applies to all members of the Nursery Community whether prospective, current, or past. The Nursery community includes: parents, carers, children and authorised collectors, Specialist Teachers, Team Members, others with whom we have a working relationship such as early years consultants, Ofsted Inspectors, Health Visitors and other professionals with whom the Nursery has remit. The policy also applies to our data handling with our bank, accountants, solicitors and the Inland Revenue, who will be given access to relevant data, all of whom have their own policies.

What does the Policy Statement tell us?

This Policy tells us that the Nursery is required to comply with the principles of the Data Protection Law and General Data Protection Regulations 2018. The Nursery is required to keep a wide variety of individual children's records, group records, staff records and other records and data essential for the safe and effective running of the Nursery and safeguarding children. The systems in place protect data and ensure privacy. All staff must take reasonable steps to handle data in accordance with this policy. Children-First are committed to protecting the rights and freedoms of individuals, with respect to the processing of personal data, for all members of the Nursery Community; all of whom have rights to access their data. This statement explains how we protect privacy.

Who is responsible for monitoring policy implementation?

All team members are responsible. On a day to day, basis the senior member of staff on duty is responsible for policy compliance.

What is the Procedure for Policy Review?

This Policy will be reviewed periodically. Reviews may be required due to changes in the law, as a result of research, changes in child-care directed by Ofsted, the children's needs, parental consultation, police advice or suggestions from courses attended by staff. Any inaccurate information must be erased and/or amended

Who is responsible for Policy Review?

The Senior Management Team are responsible for Policy review. We particularly welcome comments and suggestion from Parents on this Policy

Section2:

What are the aims of the Policy?

The aim of this Policy is to clear guidelines for the management storage and disposal of confidential, non-confidential data, records and information, within the requirements of the Data Protection Act 2018 UK,

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the General Data Protection Regulation 2018 EU and the and the Children Act Regulations. It fulfils the Welfare Requirement the EYFS Documentation, *"Providers must maintain records, policies and procedures required for the safe and efficient management of the settings and meet the needs of the children"*.

Section 3:

What are the Principles of the Data Protection Law And GDPR, and how do we comply with the principles?

To comply with principles must observe the eight principles ensuring that:

- Personal data shall be processed fairly and lawfully.
- Personal data shall be obtained only for one or more specified and lawful purposes. Personal details shall not be further processed in any manner incompatible with that purpose or those purposes.
- Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.
- Personal data shall be accurate and, where necessary, kept up to date.
- Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- Personal data shall be processed in accordance with the rights of data subjects under this Act.
- Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to personal data.
- 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 protection for the rights and freedoms of data subjects in relation to the processing of personal data.

How do we implement these principals?

The principals of the policy are designed to protect the privacy of individuals. It requires that any personal information about an individual is processed securely and confidentially, for all Members of the Nursery Community. We respect, obtain, share and use information, which sensitive and private to the benefit of the nursery and its members. We strike the right balance in processing personal information so that an individual's privacy is protected. Applying the principles to all information held by the Nursery will typically achieve this balance and help to comply with the legislation. The record keeping systems in place that meet legal requirements; means of storing and sharing that information take place within the framework required.

Section 4:

What data is collected, processed and stored, who do we share it with?

How is data collected?

Children's records include data provided by parents on enrolment to the waiting list and ongoing data. Ongoing collection of data regarding children's learning journeys, needs, requirements, food preferences, accident records and medical concerns is stored. Parents records include data provided to us by parents, including authorised collectors and records of bank payments, some emails and signed Nursery Forms, Parent Consultations and Nursery account history. Team members data includes data provided by the team member, referees, copies of achievement documents and son on. The amount of data stored is commensurate with the amount of time members of the Nursery Community have had an ongoing relationship with the Nursery.

How will data be used?

As a member of the Nursery Community, it is important for us to keep and process information about you for normal Nursery purposes. The information we hold and process will be used for management and

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administrative purposes. We keep and use this, to enable us to manage the Nursery and our relationship with you effectively. This includes information to enable us to function effectively, to comply with legal obligations and to pursue the legitimate interests of the Nursery and protect our legal position if we have to.

What data is processed and who will we share it with?

This sub-section of the Policy informs you about the types of data held, why that data is held, and to whom it may be passed on in the educational journey of children at Nursery.

Early Years Settings, Schools, Local Authorities, the Department of Education (DoE) (the government department which deals with education and children's services), the Qualifications and Curriculum Authority (QCA), Her Majesty's Chief Inspector for Schools and the Office for Standards in Education (Ofsted), and the National Assessment Agency (NAA) all process information on children and pupils in order to help administer education and children's services and in doing so have to comply with the new requirements. This means, among other things that the data held about children must only be used for specific purposes allowed by law.

During an Ofsted inspection, children's data is reviewed so that the inspector can review, compliance, learning journeys, tracking of cohorts, special needs being met and all other areas that they may want to consider in terms of the quality of care and learning.

The Nursery holds information on children in order to support their development, to monitor their progress, to provide appropriate pastoral care, and to assess how well the Setting as a whole is doing. This information includes contact details, attendance information, characteristics such as ethnic group, special educational needs and any relevant medical information. From time to time Early Years Settings are required to pass on some of this data to LAs, the DoE and to agencies that are prescribed by law, such as QCA and Ofsted. In particular, at age five an assessment is made of all children (the Foundation Stage Profile) and this information is passed to the Local Authority and receiving school. The receiving school will in time pass data on to other bodies which are outlined below.

The Local Authority (LA) uses information about children for whom it provides services to carry out specific functions for which it is responsible. For example, the Local Authority will make an assessment of any special educational needs the child may have. It also uses the information to derive statistics to inform various decisions. The statistics are used in such a way that individual children cannot be identified from them. Data is also provided to the LA for FEEE.

The Qualifications and Curriculum Authority (QCA) uses information about children to administer national assessments such as the Foundation Stage Profile. Any results passed on to the DoE are used to compile statistics on trends and patterns in levels of development. The QCA can use the information to evaluate the effectiveness of the national curriculum and the associated assessment arrangements, and to ensure that these are continually improved.

Her Majesty's Chief Inspector for Schools and Ofsted use information about the progress and performance of children to help inspectors evaluate the work of Early Years Settings, to assist them in their self-evaluation, and as part of Ofsted assessment of the effectiveness of education initiatives and policy. Inspection reports do not identify individual children.

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The National Assessment Agency (NAA) uses information for those, relatively few, Settings undertaking the Foundation Stage Profile. The resulting data is passed on to the NAA which also uses information in working with schools, the QCA, and Awarding Bodies, for ensuring an efficient and effective assessment system covering all age ranges is delivered nationally.

The Department of Education (DOE) uses information about children and pupils for research and statistical purposes, to allocate funds, to inform, influence and improve education policy and to monitor the performance of the education and children's services as a whole. The DoE will feed back to LAs information about children for a variety of purposes that will include data checking exercises, and use in self-evaluation analyses.

Information about children may be held to provide comprehensive information back to LAs to support their day to day business. The DOE may also use contact details from these sources to obtain samples for statistical surveys: these surveys may be carried out by research agencies working under contract to the Department and participation in such surveys is usually voluntary. The Department may also match data from these sources to data obtained from statistical surveys.

The DOE may also disclose individual child and pupil information to independent researchers into the educational achievements of pupils who have a legitimate need for it for their research, but each case will be determined on its merits and subject to the approval of the Department's Chief Statistician.

Children are data subjects and have certain rights under the Data Protection Act and the General Data Protection Regulations. including a general right to request, and access personal data held on them. Parents can exercise this right on their behalf if they are too young to do so themselves. If you wish to access the personal data held about your child, then please contact the relevant organisation in writing or by email:

- The Early Years Setting of Children First Nurseries, to the Nursery Manager.
- The Local Authority Data Protection Officer
- The QC's Data Protection Officer at QCA, 83 Piccadilly, London, W1J 8QA.
- Ofsted's Data Protection Officer at Alexandra House, 33 Kingsway, London WC2B 6SE,
- The NAA Data Protection Officer at NAA, 29 Bolton Street, London W1J 8BT.
- The DOE's Data Protection Officer at DoE, Caxton House, Tothill Street, London, SW1H 9NA.

In order to fulfill responsibilities under the Act the organisation may, before responding to this request, seek proof of the requestor's identity and any further information required to locate the personal data requested.

What happens to the recorded CCTV footage?

Nursery has video camera surveillance though out Nursery. This is for the protection of the children and the Nursery, it is used to monitor who enters and leaves the Nursery premises, to review accidents, concerns or incidents. Footage recording is kept on-site, used for training and is only shared with third party persons, when legally required to do so by the police or other recognized services, our insurers or their agents. The storage of images is automatically deleted after a period of time compliant with requirements.

Section 5:

What is the team's responsibility for this policy?

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Team members are responsible for implementing this policy. The Manager has responsibility for ensuring records are accurately and effectively maintained. The senior member of staff on duty has responsibility for compliance. Staff must be aware of confidential matters relating to collection of individual children. The Manager is responsible for collecting all required information before the child starts nursery. This information includes emergency contact numbers, name, date of birth, address of the child, special health and dietary requirements, who has legal contact with child and any court orders that are relevant. Managers are also responsible for collecting required data and submitting it to the local authority, which includes ethnicity. (However parents have the right to withhold information on ethnicity.)

Section 6:

What are the Nursery Community Rights and Responsibilities?

What are Parents and Carers Responsibilities?

On registration parents and carers are required to provide a fully completed Enrolment Form and Parent Contract before a child can go onto the waiting list. When a new child starts at Children-First they are given a welcome pack which includes an, 'All About Me' section. This booklet must be completed and handed to the Keyworker before starting Nursery. This will then form part of the child's, 'Learning Journey' with Nursery. Parents are responsible for keeping us updated when contact or authorised collector's data changes and by completing the current contact information sheet that the Nursery sends out periodically. Parents are also invited to contribute to their child's profile regularly, at Parents Evenings and via other means.

What are the rights of the members of the Nursery Community?

The General Data Protection Regulation and The Data Protection Act afford all members of the Nursery Community rights with regards to their personal data. You have the right to request data from us, access to data and erasure of personal data, the right to restrict the processing and make objections to processing data. Children have a right to make a request too. Due to the age of children at Nursery, it is appropriate for parents to take the lead. You should discuss any aspect of your rights with the Nursery Manager by email or face to face. The Manager will follow up by sending you an email detailing the conversation and dealing with any outcomes of it. A data request must be responded to within 30 days.

Section 7:

How are Children's Records stored?

What children's data is passed on to a new school or nursery or other professionals?

- Individual children's developmental records and profiles.
- Information relating to children's particular educational or special needs including letters from doctors and consultants etc.
- Confidential information relating to child protection; copies may need to be sent to child's ongoing school.

How do our IT systems and storage systems enable compliance?

The Nursery policy for E-Safety ensures compliance with this Policy.

How long does the Nursery retain records and data for?

We keep records for the following periods of time, which are recommendations made by relevant bodies, codes of practice, or by law, such as The Limitation Act 1980, or The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations, 1995 (RIDDOR)

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This means the Nursery keeps the following types of records for the length of period indicated below:

We keep the following for one month:

- Sleep records for children.
- Meal records.
- Menus.
- Nappy change registers

We keep the following for three years:

- Registration and attendance records for children.
- Planning both short and long term.
- Enrolment forms for children with child information, contact information of parents and authorised collectors, additional authorised collector forms.
- Particular dietary needs, preferences and requirements of children.
- Information relating to children's particular educational or special needs including letters from doctors and consultants etc.
- Children's profiles and records can be kept, but we prefer the Parent to keep them or give to child's ongoing school if required to.
- Newsletters.
- Waiting lists of children.
- Staff personal contact information and copies of staff qualifications and CRB/DBS clearance, copies of staff contract and appraisals - copies of staff return to work forms, staff banking form and accident reports, written references from previous employers are kept for three years from the date of leaving.
- Staff leave forms and attendance records.
- Staff shifts, rotas, planners, attendance, appraisals, holidays sickness and absence.
- Copies of staff disciplinary investigations, meetings and outcome letters.
- Staff training information.
- Student information.
- Accident and injury report forms
- Medication letters and Medicine Books.
- Timed and dated fire evacuation rehearsals.
- Diaries.
- Letters emails from parents, regarding concerns, complaints or compliments.
- Complaints, comments and commendations from parents.
- Returns from our parent consultation processes.
- Garden Monitor documents.
- Risk assessments, which must be dated and signed with dates of review and action taken.
- Reports of any breach of this Policy sent to the ICO.
- Data that ensures the smooth and effective running of the Nursery.
- Serious Incident Forms unless we are required to keep them for 21 years.

We keep the following for six years:

- Full and original bank statements, showing fee credits staff salaries and all payments. This is required by the Inland Revenue and is stored in locked archives by our accountants.
- Children's files, including birth certificates and other documents.

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We keep the following for twenty-one years:

- Revenue. Annual accounts and Nursery Bank Statements will be kept for a period compliant with law and Past Inspection Reports
- Photographs of Nursery special events.
- Information about repairs and maintenance contracts for Nursery equipment, gas testing, electrical testing and fire appliance testing.
- Insurance certificates.
- The following are kept off the premises securely; Tax and national insurance contributions for staff, annual returns for Inland advised by the Nursery Accountant.
- Child protection records are passed onto schools, however if not required we retain.

How long does the Nursery use and keep visual data of the Nursery Community?

- Images of children and first names are printed in promotional and marketing activities such as newspaper reports, our web site and will be shared with other families, on cards and around Nursery. Parents agree to this condition when signing the Enrolment Form.
- CCTV footage automatically deletes after a set period, this is a requirement, and it is automatically over recorded periodically.
- CCTV footage downloaded for specific purposes is destroyed when no longer required.
- Where court orders relating to specific children are in place, the Nursery adheres to all requirements relating to the child or children.

What happens when paper data is no longer required?

Redundant paper data is destroyed by shredding. This includes the data of families who have applied for a nursery place and then changed their plans and no longer require the place.

Section 8:

What are the exceptions to this Policy?

Certain data may be exempted from the provisions of The Data Protection Act and the General Data Protection Regulations. That includes the following:

- The prevention and detection of crime.
- The assessment of Tax.
- Where the processing is necessary to exercise the right or obligation conferred or imposed upon Children First Nurseries by law.
- We will disclose information in relation to outstanding fees to those who we deem necessary, in order to recover debt.
- We disclose details of a member of the Nursery Community's medical conditions if necessary in an emergency, and any other information that we believe serves the best interests of a person or child. In the case of a child this may include details such as parents and authorised collectors.

Section 9:

How are Children's Records stored and what about data portability?

Does the Nursery have rights to data portability?

In the course of day to day work the Nursery requires data to be transferred from one IT system to another; such as from in house learning journals to computers and Nursery laptops. Data Portability applies to documents we use are required to send to schools or the Local Authority or other bodies with whom we

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have legitimate relationships, such as the Local Authority, professionals involved with a child. These professionals have secure networks.

What are the rules for the data stored in the office?

Sensitive data is stored on the office, in filing cabinets which are locked at night and the computer, which is closed down at night. Data is also stored on Nursery Tablets and Parents phones and computers and may be stored in safes. Due to the sensitivity of the data junior team members are not allowed to be in the office alone. Those who are able to work in the office alone are Suitable People, Managers, Room Leaders and team workers who have worked for the company for more than three full years. At no time is a junior team member allowed lone access to the office.

What happens if there is a breach of data handling policy?

If there is an incident involving a legal breach of data handling this must be reported immediately to the Nursery Data Protection Officer and senior team member on duty. An email report must report immediately to the Data Controller. It will reported immediately to the ICO by phone. Following a full investigation and resolution a full report will be sent to the ICO as required. Other actions such, as policy training, disciplinary action, or a compliance audit may follow. Disciplinary action may be considered.

What else is important?

Documents described in this policy, Welfare Requirement Documentation and documents required by the Children Act are in place. There are occasions when data may not be disclosed such as when other children are identified and it is believed the disclosure could cause damage or distress, or the information has legal privilege. In such cases we seek and follow advice provided by our solicitors. This policy outlines the extent of data sharing.

Section 10:

Do Ofsted and LADO (Local Authority Designated Officer) Notifications comply with the law?

What do we need to inform Ofsted about?

The Children Act Regulations stipulate that we must notify Ofsted of any significant changes or events. This is the Nursery Manager's responsibility, but all other senior Managers must be informed. We need to notify Ofsted of the following:

- Any event or significant change which may affect the safety and welfare of any child in the care of the setting.
- Structural alterations and extensions.
- Anything that adversely affect the smooth running of the setting e.g. heating failure.
- Changes in the rooms used for caring for children.
- Changes to the outside, such as garden development and building work.
- A change of Manager.
- A serious accident to any member of the Nursery community whilst at Nursery.
- A Team Member of Nursery or the Registered Provider contracting a serious illness or notifiable disease.
- The serious illness, accident or death of a member of the Nursery Community.
- Serious issues, incidents and serious parental complaints.
- Police or social services involvement with a member of Nursery Team or the Nursery Director.

When is the LADO involved and what data may be provided?

When do we have an obligation to inform the LADO if a volunteer, team member, student or Specialist

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Teacher:

- Behaved in a way that has harmed a child, or may have harmed a child.
- Possibly committed a criminal offence against or related to a child.
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children.

Where concerns arise about the person's behaviour towards their own children or any other child the Police and or Children's Services should consider if they need to inform the person's employer and or the LADO to assess whether there may be implications for children with whom the person has contact at work.

What personal information would the LADO require?

In the course of managing concerns, including allegations of harm, against an adult who works with children, the LADO collects the following personal information:

- Special category characteristics of the person.
- Details of family relationships, including those of extended family
- Information gathered during child protection processes, during Section 47 enquiries and investigations and Child Protection Conferences.
- Details relating to paid or voluntary employment.

Section 11:

Who should be contacted regarding this Policy or about data protection?

Who is the Nursery Data Protection Officer at Nursery?

The Nursery Manager is the onsite Data Protection Officer and responsible for overseeing this Policy in their setting. The senior on duty assumes this responsibility in the Manager's absence.

Who is the Data Controller?

The Data Controller is Sarah Barrett who can be contacted on nd@children-first.info The company is registered with the Information Commissioners Office (ICO) which is required. The ICO registration covers electronic images taken, by nursery digital, other cameras, CCTV, or other recorded information gathered by the Nurseries.

Data Protection Act 2018 and General Data Protection Regulation 2018.

Data Request Form.

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About this form:

In order to proceed with your request, please fill out the following information and return to the Nursery office in person or by email.

- If you are the data subject, please complete section 1 and 4
- If you are making a request on behalf of a child, please complete sections 1, 2 and 4. You must also ensure that where possible both parents/legal guardians sign the form.

1. Details of Data Subject or Child's Name

Name	
------	--

Address	
	Postcode:

Telephone Numbers	
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E-mail address	
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2. Details of representatives/parents/legal guardians (please complete this section if you are NOT the data subject detailed in Section 1.

Parent's Name	
Parent's Name	

Address (If different from above)	
	Postcode:

Telephone Numbers	
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3. Details of representative/parents/legal guardians (please complete this section if you are NOT the data subject detailed in Section 1,

I hereby authorise Children First Nurseries to release personal data to the person detailed in Section 2 of this form.

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Signature: Date:

Signature: Date:

4. Declaration

I declare that the information given is correct and that I am entitled to apply for access to the personal data detailed in this form under the Data Protection Act 2018.

Signature: Date:

Signature: Date:

Notes for the Parent/s

Your family's records contain information of a personal nature regarding your child, such as,

- Accident & Incident Forms.
- Pre-Existing Injury Forms.
- Dietary details or forms,
- Health specific data.
- Emails and or reports to the Senior Management team or internal emails regarding any incidents/concerns/accidents/safeguarding concerns or similar.

Please be explicit about the data you require, so that we are able to expedite requests.

By signing this form, you are agreeing to the person or persons named on this form receiving copies of your family's personal details.