



## **GDPR, Confidentiality and Record Keeping Policy**

### **1. Statement of Purpose**

To ensure that our ELC setting complies with GDPR and cyber security guidelines, safeguarding personal data and maintaining the integrity and security of our information systems.

We are required to gather particular personal data and information in order to comply with legislation relating to early learning and childcare (ELC) in Scotland. We will gather and process all personal data and relevant consents; verbal or written, following GDPR guidance. Data will be treated confidentially and will uphold the rights of all individuals involved in the service – children, parents, staff, students and volunteers, as per the terms of the [Data Protection Act 2018](#).

We are required to hold information about the children and families using the service, as well as staff working within the setting, ensuring compliance with legislation. Processes will be in place to ensure the safe and secure storage of all data belonging to our service users. We cannot, however, withhold confidential information regarding the welfare of the child – this information will be disclosed to specified personnel and agencies if required. Parents will be made aware of this on enrolment, as well as through the parents' handbook/welcome pack.

The term 'parents' will be used to include all main caregivers.

### **2. Privacy Policy**

#### **2.1**

The [Data Protection Act 2018](#) controls how your personal information is used by organisations, businesses or the government. The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation, known as GDPR.

GDPR Rules were drafted and passed by the European Union, these rules converted into UK law on 1 January 2021 and now the [UK GDPR](#) mirrors the EU version.

Everyone responsible for using personal data should follow rules called data protection principles.

The principles lie at the heart of the UK GDPR. They are set out right at the start of the legislation and inform everything that follows. They don't give hard and fast rules, but rather embody the spirit of the general data protection regime - and as such there are very limited exceptions.

Compliance with the spirit of these key principles is therefore a fundamental building block for good data protection practice. It is also key to your compliance with the detailed provisions of the UK GDPR.

We are committed to protecting the privacy and security of personal data. We will comply with the General Data Protection Regulation (GDPR) and relevant cyber security legislation to ensure that personal data is processed lawfully, fairly, and transparently.

Our ELC setting will therefore ensure that the information/data processed is:

- Used fairly, lawfully, and transparently
- Collected and used for specified, explicit and legitimate purposes
- Used in a way that is adequate, relevant and limited to only what is necessary
- Accurate and kept up to date
- Kept for no longer than is necessary
- Handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage.
- Obtained with consent from individuals before collecting and processing their data.

### Data Storage and Security

- Keep personal data safe by using encryption and access controls.
- Frequently check and update security measures to prevent unauthorised access, loss, or damage.
- Use robust password policies and multi-factor authentication to protect sensitive data

Settings may also need to be registered with the [Information Commissioner's Office](#). There is an online self-assessment toolkit which will assist with this process on their website:

[Data protection self-assessment | ICO](#)

Early years settings should have robust cyber-security in place to help you to communicate with children, families, and staff safely in a way that protects your settings information against cyber threats.

Our setting will:

- Risk assess online safety measures in place.
- Start a conversation with our staff team about cyber security
- Learn how to stay safe and secure online.
- Share learning with our staff team
- Create and implement a Cyber Action plan

[Cyber Essentials](#) is a government backed scheme that will help you to protect your organisation, whatever its size, against a whole range of the most common cyber-attacks.

The NCSC has online training called Staying Safe Online: Top Tips for Staff. It's free, easy to use and takes under 30 minutes. It introduces why cyber security is important, how attacks happen, and covers good passwords, securing devices, looking out for phishing attacks and reporting incidents if they happen. [www.ncsc.gov.uk](http://www.ncsc.gov.uk)

Our designated Data Protection Officer for the organisation is xxx and can be contacted at xxx. They are responsible for ensuring systems are in place to process and handle all data appropriately, updating policies, undertaking an annual audit of data, monitoring staff regarding data handling, processing, and training. We are registered with the Information Commissioner's Office (ICO) and our registration number is xxx.

## 2.2

The personal data that we collect from you (or your child) **may** include:

- Name
- Gender
- Date of birth
- Home address
- Email address
- Home and mobile telephone numbers
- Information and observations to support your child's learning.

*Please note* – this is not an exhaustive list, so make sure you include details of ANY data you collect pertaining to parents/carers, children, staff or volunteers.

We **may** collect information in the following ways:

- Online
- In person
- Over the phone
- By email

## 2.3

We process your personal information to meet our legal, statutory, and contractual obligations and to provide you with our services. We will never collect any unnecessary personal data from you and do not process your information in any way, other than already specified in this notice.

We take your privacy very seriously and will never disclose or share your data without your consent, unless required to do so by law. We only retain your data for as long as is necessary and for the purposes specified in this notice. Where you have consented to us providing you with promotional offers or marketing, you are free to withdraw consent at any time.

The purposes and reasons we have for processing your personal data are:

- To support a contract or a service requested by you (i.e. the provision of early learning and childcare)
- As part of our legal obligation for business accounting and tax purposes.

## 2.4

You have the right to access any personal information that we hold and process about you. You also have the right to request information about:

- The personal data we hold about you
- The purposes for which we process your data

- The categories of data concerned
- The recipients (if any) to whom the personal data has/will be disclosed
- If applicable, where we gathered any supplementary information.

We intend to store your personal data for the duration of our contract/service with you and will operate within existing legal requirements.

### **Data Access and Sharing**

- We will limit access to personal data to those who are authorised.
- Share data with third parties only when necessary, ensuring they meet GDPR standards.
- Keep detailed records of data sharing agreements and review them regularly.

If you believe that we hold any incomplete or inaccurate data about you, you have the right to ask us to correct and/or complete the information and we will endeavour to make the corrections as a matter of urgency. If there is a valid reason for not doing this, we will contact you and update you about this situation. You also have the right to request the deletion of your personal data or to restrict processing in accordance with General Data Protection Regulation, as well as to object to any direct marketing from us and to be informed about any automated decision-making that we use which relates to required communications in relation to the service we provide to you. If we receive a request from you to exercise any of the above rights, we may ask you to verify your identity before acting on the relevant request; this is to ensure that your data is protected and kept secure.

### **2.5**

We do not share or disclose any of your personal information without your consent, other than for the purposes specified in this notice or where there is a legal requirement. The processors acting on our behalf only process your data in accordance with instructions from us and comply fully with this privacy notice, which we have agreement of. They have agreed to adhere to the data protection laws and work within the requirements of required confidentiality and security measures. Regulatory requirements from governing bodies supersede the requirements of the regulation; where a request is made by a non-regulatory organisation, your consent will be requested. We are required to share information without consent if:

- There is evidence that a child is suffering or at risk of suffering significant harm.
- There is reasonable cause to suspect that a child may be suffering or at risk of suffering significant harm.
- It will prevent a crime being committed or provide information where a crime may have been committed.
- Refusing to share the information will have a negative outcome.

### **2.6**

You are not obligated to provide your personal information where it does not relate directly to our service to you, however, if this information is required for us to provide you with our services it may have a direct impact upon the level of service, we can provide you with.

### **2.7**

We only ever retain personal information for as long as is necessary, for the duration of our contract/service with you. Where you have consented to us using your details for direct marketing, we will keep such data until you notify us otherwise and/or withdraw your consent. Regulatory requirements from governing bodies supersede the requirements of the regulation.

## **2.8**

When you provide your details, you will see one or more tick boxes allowing you to:

- Opt-in to receive marketing communications from us by email, telephone, text message or post.
- Opt-in to receive marketing communications from our third-party partners (where applicable) by email, telephone, text message or post.

If you have agreed that we can use your information for marketing purposes, you have the right to change your mind at any time by letting us know.

## **2.9**

We will always hold your information securely. To prevent unauthorised disclosure or access to your information, we have implemented strong physical and electronic security safeguards.

## **2.10**

Our website may contain links to other websites. Please note that we have no control of websites outside our domain. If you provide information to a website to which we link, we are not responsible for its protection and privacy. We would advise you to read any such site's data protection and privacy policies fully to ensure your own security.

## **2.11**

We only process your personal information in compliance with this privacy notice and in accordance with the relevant data protection laws. If, however, you wish to raise a complaint regarding the processing of your personal data or are unsatisfied with how we have handled your information, you have the right to lodge a complaint with the supervisory authority.

Information Commissioner's Office Scotland

[The UK GDPR | ICO](#)

The Information Commissioner's Office – Scotland

6th floor, Quatermile One

15 Lauriston Pl

Edinburgh

EH3 9EP

Telephone: 0303 123 1115

Email: [scotland@ico.org.uk](mailto:scotland@ico.org.uk)

## **3. Additional information to support confidentiality**

The Care Inspectorate's [Guidance on Records you Must Keep and Notifications you Must Make](#) details the information we must keep about children, staff and service users within our ELC Setting.

### 3.1 - Children's Records

To ensure the smooth running of the setting we keep a variety of records including health and safety records, financial records, employment records of staff, students and volunteers and development plans

We also keep records of the children including:

- Personal Records/Care Plans
- Developmental Records

*Personal Records/Care Plans* will record information including registration and consent forms, contact information, correspondence from other agencies regarding the child and/or family, health issues and any other, relevant, confidential information. These records will be stored securely in a lockable cabinet. Parents will have access only to their own child's file.

*Developmental Records* may include samples of the children's work, photographs, observations of the child's progress in the setting and any other relevant information pertaining to the child's progress. These records are usually kept within the playroom and can be accessed and contributed to by children, staff and parents. Parents will only have access to their own child's records.

All information regarding children and their families will be accurate and up to date and shared only with the appropriate personnel. Each child's personal records concerning information relating to medical matters, child protection matters, additional support needs will be retained for a ten-year period and safely disposed of by shredding, pulping or burning. In collecting, holding and processing personal data the setting complies with current Data Protection rules and guidance. This also complies with GDPR as highlighted under 'Information you hold'. We will document what personal data we hold, where it came from and who we share it with.

### 3.2 - Staff Records

All issues regarding the employment and management of staff are confidential to the people directly involved i.e. the staff member and those involved in making the decisions. Staff will have their own personal record containing relevant information and they will have access only to their own personal record. Records will be kept securely by the person specified by the employer as having access to the personnel files. In committee managed settings these names will need to be reviewed regularly, at least annually, and any changes recorded as appropriate. Records will be disposed of by burning, shredding or pulping and will be kept no longer than necessary.

*Please note* - this may be changed on advice from your local authority, if appropriate. Records should be reviewed regularly, and information no longer required should be deleted.

Any personal information regarding a member of staff will not be passed to another person without their prior knowledge and consent. Information regarding an individual's performance will be confidential as will any disciplinary or grievance matters in which they are directly involved.

### **3.3 - Data Breaches**

You should make sure that you have the right procedures in place to detect, report and investigate a personal data breach. Any breach of the procedures will be investigated and will result in disciplinary action being taken if involving a staff member. In a committee managed service any breach of the procedures will result in a complaint being raised against them and *appropriate action taken*. Any data breach must be reported to the ICO within 72 hours.

We will use advice from the ICO to determine whether there has been a [data breach](#)

### **Monitoring of this Policy**

It will be the responsibility of Sophie Startin to ensure that all staff, including new or temporary staff, are familiar with this policy and to monitor that it is being implemented. Parents should be made aware of this policy through the parents' handbook and the enrolment procedure.

We commit to annual reviewing and updating of this policy to ensure ongoing compliance with GDPR and cyber security legislation. We will monitor changes in legislation and best practices to keep the policy current and effective.

### **See also:**

Additional Support Needs Policy  
Administration of Medication Policy  
Child Protection Policy  
Complaints Policy  
Use of ICT Policy  
Safe Recruitment Policy  
Staff Development  
Whistleblowing Policy  
Anti-bullying and Harassment Policy  
Retention of Documents

Your practice and policy must adhere to the [Health and Social Care Standards](#).

### **Other resource/guidance**

[Cyber resilience - gov.scot \(www.gov.scot\)](#)

[Cyber Resilience and Funding -SVCO](#)

[Stay protected online with a Cyber Action Plan - NCSC.GOV.UK](#)

### ***Links to National Policy***

Please refer to the EYS Early Years External guidance glossary which can be found within MyEYS for the most up to date links.

The purpose of this Early Years External Guidance Glossary is to offer a comprehensive collection of links and documents from external organisations. These resources form the foundation of the policies and procedures used within your ELC setting