

## **Safeguarding and Welfare Requirement: Information and Records**

Providers must maintain records and obtain and share information to ensure the safe and efficient management of the setting, and to help ensure the needs of all children are met.

# **11.0 General Data Protection Regulation Policy**

## **Policy statement**

General Data Protection Regulation (GDPR) is now law and was enforced from the 25th May 2018. It replaces the Data Protection Act 1998, which was developed when most data processing was paper based and there was limited understanding of the impact of technology on how we process data. Our Data Protection Officers are Emma Curl (Administrator) and Rebecca Lanham (Manager). We are registered with the ICO- Information Commissioners Office as a data controller.

GDPR has six Privacy Principles:

- There must be a lawful reason for collecting personal data and it must be done in a fair and transparent way
- Data must only be used for the reason it was initially obtained
- No more data must be collected than is necessary
- Data held must be accurate and procedures should be in place to keep it up to date
- Data cannot be kept longer than it is needed
- Personal data must be protected

These principles are supported by a further principle- accountability. Downton Community Pre-school is committed to collecting personal data in a fair and transparent way and has measures in place to demonstrate our compliance with GDPR.

## **Data we collect and why**

Downton Community Pre-school is an Ofsted registered childcare provider. As such, we are required to collect and hold certain data about different groups of people;

- Parents
  - name, address, phone numbers, email address
  - national insurance number
- Children

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- name, address, date of birth, gender, ethnicity, medical, learning and developmental information, SEND information, child protection information, photos and attendance data.
- Waiting list parents and children
  - parent names, address, phone numbers and email address, child's name and date of birth
- Committee members, volunteers and students
  - name, address, phone numbers, email address, date of birth, DBS certificate and personal disclosure details, bank details, course certificates
- Staff
  - name, address, date of birth, phone numbers, email address, employment history, education history, references, qualifications, medical and disability information, national insurance number, pension details, DBS certificate and personal disclosure details, bank details, course certificates, information regarding their work at pre-school/appraisals.
- Job applicants
  - name, address, date of birth, phone numbers, email address, employment history, education history, references, qualifications, medical and disability information, interview and observation notes.

The data we collect and hold is used to provide childcare and education, to track a child's development, to update parents on their child's development, to contact parents in the event of an emergency and to claim free entitlement funding. We must also hold this data for legal reasons (such as taxation), to fulfil employment contractual obligations and for legal obligations regarding safeguarding and child protection. We collect this information and data to ensure the well being and care needs of children are met. It also enables us to access support and funding for families and assess the quality of our childcare provision. We meet statutory obligations and comply with the law with regards to data sharing.

### **How we collect data**

Before collecting data from an individual, we issue them a copy of this policy so that they are aware of the data we collect, how it is used and stored and who it may be shared with.

We collect data relating to children and parents using our Registration form, Application to Join (enrolment) form, Email Request form and Birth Certificate form that are completed when a child joins pre-school. Further data relating to attendance and funding is collected termly via our Session Confirmation form, Parent Declaration form and 30 hour consent form. The setting may receive further data about a child from Speech and Language reports

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or developmental reports from Giant Steps Nursery (with parental consent). Other data may be collected via email or verbally but parents are asked to use an official form. Some data is provided on a voluntary basis and we will inform you of the things that are mandatory, to ensure we provide quality care and improve outcomes for the children.

Staff data is collected using our Staff Application form, Disclosure & Barring Service form, Confidentiality and Disclosure forms and during interview.

We know when the data we hold was collected from the date on each form.

### **Data storage**

Paper copies of the data we collect is stored in a locked filing cabinet. Developmental reports are stored on a password protected memory stick. Any other digital data is held on the two pre-school laptops, both of which are password protected. Use and storage of these laptops is covered by our 'Laptop policy for Practitioners at Downton Community Pre-school'. Information will be retained for as long as required, for example as evidence for Ofsted or Safeguarding purposes.

### **Updating personal data**

To ensure the personal data we hold is accurate and up to date, we obtain termly updates from parents on any change to their or their child's personal details. Personal details held relating to staff are checked annually during staff appraisals.

### **Data processing**

As a small setting, Downton Community Pre-school as a whole is responsible for the implementation of this policy. The policy applies to all staff and committee members.

Data is retained for the relevant retention period (see attached document) and then shredded. Electronic data is deleted when no longer required.

### **Sharing information internally**

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Not all of the data we hold is accessible to every member of staff or committee member. The administrator has overall responsibility for current and past children and parent personal details, waiting list children and parent details, attendance data and parent national insurance numbers relating to funding claims. The pre-school leader has overall responsibility for children's developmental records and data held relating to staff, job applicants, students, committee members and volunteers. The pre-school leader and designated safeguarding lead have overall responsibility for child protection and safeguarding data. The SENCO has overall responsibility for SEND data.

Access to these records is restricted to the responsible person but may need to be shared with other staff or committee members.

Invoice amounts, child and parent's names are shared with our accountant via email using password protected files.

Staff and committee emails relating to children or parents use initials to identify them or password protected files.

### **Sharing information externally**

Any information given to preschool will be treated as confidential. However there are times when it is a requirement that staff share details, including evidence for Ofsted on request, working with staff members to ensure continuity, seeking advice from other professionals, to support transitions or to apply for funding. Only in exceptional circumstances, for example in an emergency safeguarding situation, where the child could be put into more risk of significant harm if consent is gained, will information be shared without consent, informing the local safeguarding team or the police.

Any third parties that we share data with must sign and comply with our Data Sharing Agreement.

To claim free entitlement funding, we share data collected on our Parent Declaration form with Wiltshire Council. This data includes child's name, address, gender, ethnicity, attendance at Downton Community Pre-school and other settings. If the parent is claiming 30 hour extended entitlement, we share their national insurance number and 30 hour code. If the parent is claiming Early Years Pupil Premium, we share their national insurance number and qualifying criteria. The information is usually posted by recorded delivery but is sometimes sent by email, depending on Wiltshire Council's request.

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Downton Community Pre-school undertakes the Bristol Standard, a nationally recognised self evaluation framework. As part of our submission, photos of the children at pre-school are included. There are no names or identifying information included. The submission is sent to Wiltshire Council via post and email.

We sometimes include photos and share news in newsletters, on the website, local community magazines, our on Facebook page, prospectuses and welcome books/information. This can be viewed by current, previous and prospective parents/carers. We ask for parental consent for this during the induction and respect wishes if you would prefer these images relating to your child, would not be used.

Developmental reports about the children are shared with our local nursery, Giant Steps, as many of our children also attend Giant Steps too. Parents are asked for consent to share this information. The data is hand delivered. When a child leaves our setting, we will provide families with any additional artwork or photos and any learning and development information will be passed onto the school or other setting to support the transition process. Any information that is not passed on and is no longer required, will be shredded or deleted.

Forms from the Speech and Language Service about children they are seeing are completed by the pre-school and returned via post.

Staff data is shared with the Disclosure and Barring Service via post. The data includes name, address, telephone number, date of birth, national insurance number and photographic ID (passport or driving license).

### **Right of access**

Before collecting data from an individual, we issue them a copy of this policy so that they are aware of the data we collect, how it is used and stored and who it may be shared with. An individual has the right to withdraw their consent for us to hold their data as long as there is no reason for its continued use (see attached document on retention periods). An individual can make a request relating to the data we hold on them or their child and we will respond within 1 month. We can refuse a request if we have a legal obligation to do so. Individuals have the right to make a complaint to the manager, so we can work together to resolve the situation. Individuals also have the right to make a complaint to the Information Commissioner's Office if they are not happy with our data management.

### **Data breach notification**

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In the event of a data breach, Downton Community Pre-school will notify the Information Commissioner's Office (ICO) within 72 hours of us becoming aware of the breach. If the breach is a high risk to the individual, for example, if the type of data compromised could lead to identity theft or fraud, then we will notify the individuals concerned.

### Legal framework

- <http://data.consilium.europa.eu/doc/document/ST-5419-2016-INIT/en/pdf>

This policy was adopted at a meeting of	Downton Community Preschool	<i>(name of provider)</i>
Held on	September 2019	<i>(date)</i>
Date to be reviewed	September 2020	<i>(date)</i>
Signed on behalf of the provider		
Name of signatory	Sarah Nutbeam and Lucy Babb	
Role of signatory (e.g. chair, director or owner)	Co-Chairs	

<b>Children's Records</b>	<b>Retention Period</b>	<b>Status</b>	<b>Authority</b>
Children's records - including registers, medication record books and accident record books pertaining to the children	Records should be retained for a reasonable period of time (for example 3 years) after children have left the provision	Requirement	Early Years Foundation Stage Welfare Requirements (given legal force by Childcare Act 2006)
	Until the child reaches the age of 21 or until the child reaches the age of 24 for child protection records	Recommendation	Limitation Act 1980, The Statute of Limitations (Amendment) Act 1991  Normal limitation rules (which mean that an individual can claim for negligently caused personal injury up to 3 years after, or deliberately caused personal injury up to 6 years after the event) are postponed until a child reaches 18 years old.
Records of any reportable death, injury, disease or dangerous occurrence	3 years after the date on which it happened	Requirement	The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)

<b>Personnel Records</b>	<b>Retention Period</b>	<b>Status</b>	<b>Authority</b>
Personnel files and training records (including disciplinary records and working time records)	6 years after employment ceases	Recommendation	Chartered Institute of Personnel and Development
Application forms and interview notes (for unsuccessful candidates)	1 year	Recommendation	Chartered Institute of Personnel and Development
<p>Disclosure Barring Check</p> <p>(This includes everyone working, volunteering (including management committees), and people living on the premises within the childcare organisation)</p>	<p>6 years after employment ceases</p> <p><i>(Do not keep the disclosure document, make a note of the 5 relevant pieces of information as detailed in Authority column)</i></p>	Requirement	<p>DBS Code of Practice: Retain the following after certificate is destroyed –</p> <ul style="list-style-type: none"> <li>• the date of issue of a Disclosure</li> <li>• the name of the subject</li> <li>• the type of Disclosure requested</li> <li>• the position for which the Disclosure was requested</li> <li>• the unique reference number of the Disclosure</li> <li>• the details of the recruitment decision taken</li> </ul>

<p>Child Protection – Allegation against anyone involved within the childcare organisation (paid or unpaid)</p> <p>(store in person’s confidential file and a copy given to the individual)</p>	<p>Retained on file, including people who leave the organisation, <b>at least until the person reaches normal retirement age, or for 10 years if that is longer.</b></p>	<p>Requirement</p>	<p>Children Act 1989/2004</p> <p>Guidelines set by LSCB</p> <p>Records of the allegation must be clear and comprehensive, detailing:</p> <ul style="list-style-type: none"> <li>▪ Any allegations made</li> <li>▪ Details of how allegations were followed up and resolved</li> <li>▪ Any action taken</li> <li>▪ Decisions reached</li> </ul>
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<b>Pay</b>	<b>Retention Period</b>	<b>Status</b>	<b>Authority</b>
Wage/salary records (including overtime, bonuses and expenses)	7 years	Requirement	Taxes Management Act 1970
Statutory Maternity Pay (SMP) records	3 years after the end of the tax year in which the maternity period ends	Requirement	The Statutory Maternity Pay (General) Regulations 1986
Statutory Sick Pay (SSP) records	3 years after the end of the tax year to which they relate	Requirement	The Statutory Sick Pay (General) Regulations 1982
Income tax and National Insurance returns/records	At least 3 years after the end of the tax year to which they relate	Requirement	The Income Tax (Employments) Regulations 1993
Redundancy details, calculations of payments, refunds, notification to the Secretary of State	6 years after the employment ends	Recommendation	Chartered Institute of Personnel and Development

<b>Health and Safety</b>	<b>Retention Period</b>	<b>Status</b>	<b>Authority</b>
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Staff accident records (for organisations with 10 or more employees)	3 years after the date of the last entry (there are separate rules for the recording of accidents involving hazardous substances)	Requirement	Social Security (Claims and Payments) Regulations 1979
Records of any reportable death, injury, disease or dangerous occurrence	3 years after the date on which it happened	Requirement	The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR)
Accident/medical records as specified by the Control of Substances Hazardous to Health Regulations (COSHH)1999	40 years from the date of the last entry	Requirement	The Control of Substances Hazardous to Health Regulations 1999/2002 (COSHH)
Assessments under Health and Safety Regulations and records of consultations with safety representatives and committees	Permanently	Recommendation	Chartered Institute of Personnel and Development

<b>Financial Records</b>	<b>Retention Period</b>	<b>Status</b>	<b>Authority</b>
Accounting records	3 years from the end of the financial year for private companies. 6 years for public limited companies 6 years for charities	Requirement	Section 386 of the Companies Act 2006 Charities Act 1993/2006

<b>Administration Records</b>	<b>Retention Period</b>	<b>Status</b>	<b>Authority</b>
Complaints record book	At least 3 years from the date of the last record. (Until next inspection as must be made available to Ofsted or relevant childminder agency)	Requirement	Early Years Foundation Stage Welfare Requirements (given legal force by Childcare Act 2006)

Insurance liability documents	40 years from date of issue	Requirement	Health and Safety Executive
Minutes/minute books	10 years from the date of the meeting for companies	Requirement	Companies act 2006
	6 years from the date of the meeting for Charitable Incorporated Organisations	Requirement	The Charitable Incorporated Organisations (general) Regulations 2012

**Note:**

**Child protection** – All documents relating to child protection i.e. referrals, contact with social care of SSCB (including LADO) for 24 years.

**Closure** - If the childcare organisation has to close for any reason, it is recommended that the nursery contact their legal advice line through their insurance, and seek advice from the Information Commissioning Office ([www.ico.org.uk](http://www.ico.org.uk)) in relation to storing records.