Data Protection (GDPR) and Confidentiality Policy

Policy Statement

At **Young England Kindergarten,** we recognise that we hold sensitive/confidential information about children and their families and the staff we employ. This information is used to meet children's needs, for registers, invoices and emergency contacts. Information is gathered in order to enable it to provide education and other associated functions.

We store all records in a locked cabinet or on the office computer with files that are password protected in line with data protection principles. Any information shared with the staff team is done on a 'need to know' basis and treated in confidence. This policy will work alongside the Privacy Notice to ensure compliance under General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR) and Data Protection Act 2018.

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This policy sets out our commitment to protecting personal data and how that commitment is implemented in respect of the collecting, processing, using, storing and sharing of personal data.

We have appointed a Data Protection Co-Ordinator ('DPC') who is responsible for ensuring our compliance with the GDPR.

Their contact details are:

- Name: Henry King
- Telephone: 0207 834 3171
- Email: henry@youngenglandkindergarten.co.uk

We are registered with the Information Commissioners Office (ICO) under registration reference: ZA143472.

All staff have undertaken training in the GDPR and are aware of their responsibilities in collecting, using and sharing data.

We have a privacy notice that sets out the lawful bases for processing the data, the legitimate interests for the processing, individual's rights and the source of the personal data.

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We have a process in place to record any data breaches and a form for reporting breaches to the ICO and any investigations.

We have a policy in place for the retention of documents and archiving of them. Please refer to our Record Retention Policy.

We have an asset register in place to record the different types of information and documentation that we hold. This is updated regularly.

Procedure

This provision is aware that data protection legislation applies equally to children and staff. Article 5 of the GDPR sets out the principles that we work to.

- Data must be processed fairly, lawfully and in a transparent manner.
- Data must only be obtained for specified and lawful purposes.
- Data must be adequate, relevant and not excessive (limited to what is necessary).
- Data must be accurate and up to date.
- Data must not be kept for longer than necessary.
- Data must be securely kept.

We use the GDPR rights for individuals.

- The right to be informed.
- The right of access.
- The right to rectification.
- The right to erasure.
- The right to restrict processing.
- The right to data portability.
- The right to object.
- Rights in relation to automated decision-making and profiling.

Ensuring staff, student and volunteer inductions include an awareness of the importance of confidentiality and that information about the child and family is not shared outside of the nursery other than with relevant professionals who need to know that information. It is not shared with friends and family, discussions on the bus or at the local bar. If staff breach any confidentiality provisions, this may result in disciplinary action and, in serious cases, dismissal. Students on placement in the nursery are advised of our confidentiality policy and required to respect it.

Ensuring that all staff, volunteers and students are aware that this information is confidential and only for use within the nursery and to support the child's best interests with parental permission.

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Ensuring that parents have access to files and records of their own children but not to those of any other child, other than where relevant professionals such as the police or local authority children's social care team decide this is not in the child's best interest.

Ensuring all staff are aware that this information is confidential and only for use within the nursery setting. If any of this information is requested for whatever reason, the parent's permission will always be sought other than in the circumstances above.

Ensuring staff do not discuss personal information given by parents with other members of staff, except where it affects planning for the child's needs.

Ensuring staff, students and volunteers are aware of and follow our social networking policy in relation to confidentiality.

Ensuring issues concerning the employment of staff remain confidential to the people directly involved with making personnel decisions.

Ensuring any concerns/evidence relating to a child's personal safety are kept in a secure, confidential file and are shared with as few people as possible on a 'need-to-know' basis. If, however, a child is considered at risk, our safeguarding/child protection policy will override confidentiality.

All the undertakings above are subject to the paramount commitment of the nursery, which is to the safety and well-being of the child.

The following procedures apply to information held about children.

1. A child's educational records will be disclosed to their parent or carer on submission of a written request to the DPC or nominated representative (e.g. Manager).

   Requests will only be refused if it is obvious the requester does not understand what they are asking for, or if disclosure is likely to cause them or anyone else serious physical or mental harm. See Appendix 1 for the process of actioning a subject access request.

2. A child's educational records will be made available without charge within 15 working days of receipt of the written request. If a copy of the information is requested, a charge may be made but it will not exceed the cost of supply.

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3. Children's records will be stored securely. Paper files are locked in a secure cabinet in the setting by the Principal's desk. Electronic files are stored in a secure account on cloud-based software provided by 'DropBox'. Password access to this shared folder is limited to the Senior Management Team only.

   DropBox's service is fully compliant with the GDPR. Computers within the provision are kept secure with appropriate software to ensure maximum protection against ransom and malware which is regularly updated. All data is securely backed up by the Data Protection Coordinator on a password protected external hard drive.

   Information that is shared is done securely using a secure email system or password protection of the document.

The following procedures apply to information held about staff.

1. A list of their personal data is periodically sent to each member of staff . This applies to all data, whether held on computer or as hard copy.

2. Members of staff are required to read this information carefully and inform the DPC at the earliest opportunity if they believe that anything is inaccurate or untrue, or if they are dissatisfied with the information in any way.

3. Requests for additional access must be sent to the DPC. Each request will be judged in light of the nature of the information in question and the frequency with which it is updated. The member of staff will then be informed whether or not the request is granted. In the event of a disagreement, the matter will be taken up under the formal grievance procedure.

4. If a request for additional access is granted, the information will be provided within 30 days of the date of the request. A fee will not be charged to gain access to the data. However, we can charge a "reasonable fee" if a request is manifestly unfounded or excessive, particularly if it is repetitive. We may also charge a reasonable fee to comply with requests for further copies of the same information. The fee will be based on the administrative cost of providing the information.

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We have contracts with the following third parties:

- Arc Pathway
- Blossom
- HR4UK
- Google
- DropBox
- Westminster City Council
- Lambeth City Council
- First Advantage: OnlineDisclosures
- Your Childcare Business
- Xero

We have documents from each contractor confirming their compliance with GDPR.

Reporting breaches

A personal data breach can be broadly defined as a security incident that has affected the confidentiality, integrity or availability of personal data.

Recital 87 of the GDPR makes clear that when a security incident takes place, you should quickly establish whether a personal data breach has occurred and, if so, promptly take steps to address it, including telling the ICO if required.

When a personal data breach has occurred, the DPC will establish the likelihood and severity of the resulting risk to people's rights and freedoms. If it's likely that there will be a risk then the DPC will notify the ICO; if it's unlikely, then the DPC does not have to report it. However, if it is decided not to report the breach, justification of this decision will be documented.

If a contracted Data Processor suffers a breach, then under Article 33(2) it must inform the DPC without undue delay as soon as it becomes aware.

Please see Appendices 2 & 3.

Notifiable breaches will be reported to the ICO without undue delay, but not later than 72 hours after being discovered.

What information must a breach notification to the supervisory authority contain?

- A description of the nature of the personal data breach including, where possible:
- the categories and approximate number of individuals concerned; and
- the categories and approximate number of personal data records concerned;

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- the name and contact details of the data protection officer or other contact point where more information can be obtained;
- a description of the likely consequences of the personal data breach; and
- a description of the measures taken, or proposed to be taken, to deal with the personal data breach, including, where appropriate, the measures taken to mitigate any possible adverse effects.

If a breach is likely to result in a high risk to the rights and freedoms of individuals, DPC will inform those concerned directly and without undue delay.

If a decision is made not to notify individuals, the ICO will still be notified unless it can be demonstrated that the breach is unlikely to result in a risk to rights and freedoms.

What information must we provide to individuals when telling them about a breach?

- the name and contact details of your data protection officer or other contact point where more information can be obtained;
- a description of the likely consequences of the personal data breach; and
- a description of the measures taken, or proposed to be taken, to deal with the personal data breach and including, where appropriate, of the measures taken to mitigate any possible adverse effects.

All breaches will be recorded, regardless of whether or not they need to be reported to the ICO, including: facts relating to the breach, its effects and the remedial action taken.

It may also be necessary to notify third parties such as the police, insurers, professional bodies.

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Remedial action and redress if a data breach has occurred:

Formal Apology: If Young England Kindergarten has failed to comply with a SAR, a formal apology to the data subject is a suitable form of redress.

Review of Procedures: Young England Kindergarten will then review its data processing and SAR handling procedures to prevent future non-compliance.

Training: Staff involved in processing SARs will receive further training on their responsibilities and obligations under data protection law.

Complaints

Complaints will be dealt with in accordance with the Kindergarten's complaints policy. Complaints about the above procedures should be made to the DPC and/or Manager who will decide whether it is appropriate for the complaint to be dealt with in accordance with the Kindergarten's complaints procedure.

Complaints which are not appropriate to be dealt with through the Kindergarten's complaint procedure can be dealt with by the Information Commissioner.

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Review

This policy will be reviewed and updated in line with legislation if necessary, every year. The policy review will be undertaken by the Data Protection Coordinator or nominated representative (e.g. Manager).

This policy was adopted by	Young England Kindergarten
On	September 2023
Date to be reviewed	September 2025
Signed on behalf of the management committee	
Name of signatory	Henry King
Role of signatory	School Business Manager

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Appendix 1

Actioning a subject access request

1. Requests for information must be made in writing, which includes email, and be addressed to the Data Protection Coordinator or nominated representative (e.g. Manager). 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 licence
- 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.

4. The response time for subject access requests, once officially received, is within 1 month of receiving the request (not working or Kindergarten days but calendar days, irrespective of Kindergarten holiday periods).

5. Third party information is that which has been provided by another, such as the Police, Local Authority, Health Care professional or another Kindergarten. Before disclosing third party information consent should normally be obtained.

6. Any information which may cause serious harm to the physical or mental health or emotional condition of the pupil 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.

7. If there are concerns over the disclosure of information then additional advice should be sought.

8. 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.

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9. 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.

10. Information can be provided at the Kindergarten 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 Data Protection Coordinator or nominated representative (e.g. Manager). who will decide whether it is appropriate for the complaint to be dealt with in accordance with the Kindergarten's complaint procedure. Complaints which are not appropriate to be dealt with through the Kindergarten's complaint 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.

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Appendix 2

RECORD OF DATA BREACH FORM

Date of breach		Date reported to ICO if appropriate	
Reason of decision not to report to ICO			
Details of breach			
Number of individuals impacted by the breach			
Number of data records affected			
Risk analysis conducted			
Date data subjects informed of the breach			
Measures taken to minimise risk to individuals			
Measures taken to deal with the breach			
Is the breach human error or systemic issue?			
Changes made to policy, procedures and processes			
Staff training needs identified			
Responsible officer			

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Appendix 3

DATA BREACH REPORTING TEMPLATE

Name of organisation	
ICO registration number	
Date and time reported to the ICO	
Name of Data Protection Officer or contact person	
Contact details	
Information on the breach	
Brief summary of the breach	
Number of individuals concerned (data subjects)	
Number of personal data records concerned	
Categories of data involved (eg personal, sensitive)	
Likely consequences of the personal data breach	
Measures taken or proposed to deal with the personal data breach	
Measures taken to reduce adverse effects for the individuals concerned	

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