



Data Protection and Information Sharing Policy

INTRODUCTION

The Data Protection Act 1998 (the Act) aims to protect all personal data which is collected, processed, stored and disposed of by an organisation. Personal data is information about a living, identifiable person. The Act applies to data in paper and electronic format.

Kingsdown Nursery School has a statutory duty to comply with the requirements of the Act as it collects data about residents, employees and other individuals when conducting its business. Individuals can be personally liable for offences committed under the Act.

The Information Commissioner's Office (ICO) is responsible for regulating and enforcing the Act. The ICO is an independent authority which has legal powers to ensure organisations comply with the Act. Fines of up to £500,000 can be issued to organisations which breach Data Protection requirements.

POLICY STATEMENT

Kingsdown Nursery School is committed to ensuring compliance with the Act, and will:

- Respect the rights of each individual
- Be open and honest about the personal data it holds
- Provide training and support to those handling personal data in the course of their duties
- Notify the ICO that it processes personal data. This is a statutory requirement and notification must be submitted annually. Notification must be kept up to date with any changes to the use of personal data being updated within 28 days.
- Inform the ICO of breaches of the Act (where required)

SCOPE

This policy applies to all Kingsdown Nursery School's employees, and to partner agency employees (including Governors, volunteers and contractors) handling data on behalf of Kingsdown Nursery School. Everyone handling personal data must understand and comply with the principles of the Data Protection Act.

LEGAL CONTEXT

Reference to the following legislation and guidance may be required when reading this policy:

- The Freedom of Information Act 2000
- Regulation of Investigatory Powers Act 2000
- Computer Misuse Act 1990
- Human Rights Act 2004
- Mental Capacity Act 2005
- The Education (Pupil Information)(England) Regulations 2000

- Related Council documents:
- Records Management policy
- Information Security policy
- Freedom of Information policy
- Subject Access Requests (SARs) policy and procedure
- Transporting information safely
- Data loss procedure
- Vigilance with Information
- Recording guidance for Adults
- Information Sharing policy and guidance (Adult Services)
- Recording with Care (Children's Services)
- Information Sharing policy and guidance (Children's Services)

DEFINITIONS

Personal data is information which relates to a living individual who can be identified

A **data subject** is an identifiable living individual

A **data controller** is a person who determines the purposes for which data are to be processed and the manner in which that data are processed. A data controller may also act jointly with another organisation to process personal data, for example with the Police, Health Service and suppliers).

THE RIGHTS OF THE DATA SUBJECT

The Act provides individuals with a number of rights relating to their personal data:

Accessing information

This allows an individual to find out what personal data Kingsdown Nursery holds about them.

Correcting information

An individual has the right to correct, block, remove or destroy personal details which are factually inaccurate. This needs to be discussed with the Headteacher, and in some cases the individual may need to refer to the ICO or apply for a court order to make these changes. In all cases Kingsdown Nursery School must keep the original data as a record of its actions, even if this has been corrected.

Where the data subject disagrees with an opinion recorded on file, their comments will be added to the record. A copy of the amended record should be sent to the data subject for their records.

THE EIGHT DATA PROTECTION PRINCIPLES

The Act states that anyone who processes personal data must comply with eight principles, which ensure that personal information is:

1. Fairly and lawfully processed and that the processing meets conditions listed in schedules 2 and 3 of the Act
2. Processed for limited purposes
3. Adequate, relevant and not excessive
4. Accurate and up to date
5. Not kept for longer than is necessary
6. Processed in line with your rights
7. Secure
8. Not transferred to countries outside the European Economic Area (EEA) without adequate protection

DEFINITION OF PERSONAL DATA

The Data Protection Act 1998 defines personal data as data which relates to a living individual who can be identified:

- from those data, or
- from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller
- The Act makes a distinction between *personal data* and *sensitive personal data*. Sensitive personal data includes:
 - Racial or Ethnic Origin
 - Political Opinions or Persuasion
 - Religious Beliefs or other beliefs of a similar nature
 - Trade Union Membership or Affiliation
 - Physical or Mental Health or Condition
 - Sexual Life
 - Commissioned or Alleged Commission of Offences
 - Any proceedings for any offence, committed or alleged, including any sentencing decisions made by the Court

MAINTAINING REGISTRATION

Schools are individually responsible for their own Data Protection. This includes registering annual notification with the ICO and responding to requests for personal data (Subject Access Requests). A reminder comes to school via post to Headteacher.

RECORDS MANAGEMENT AND INFORMATION SECURITY

All paper files are stored securely in locked cabinets in the Main Office. Electronic systems are password protected, with only authorised users being given access. Staff working away from the offices must ensure records are adequately protected at all times, preventing damage, theft / loss and unauthorised access to personal data. Personal data must not be stored on unencrypted equipment. In addition, data must not be stored on any personal equipment belonging to staff members, such as home computers, laptops, mobile phones, memory sticks, compact discs, MP3 players, cameras or any other device.

Desktop computers, laptops and smartphones must be password protected and locked when left unattended during the day. Staff are required to log off and shut down all systems at the end of the working day.

Staff must not disclose passwords to colleagues or use passwords belonging to other staff members. The password holder will be held liable for any breach of the Act.

Staff that leave Kingsdown Nursery School will have their email and log on details closed down by the schools IT provider.

Pupil information is kept electronically with password protection; hard copies are kept in files in the Main Office. When a pupil leaves Kingsdown Nursery all paper information is forwarded to the next school.

Staff information is kept electronically with password protection; hard copies are kept in files in the Main Office in a locked secure filing cabinet. Staff that have left Kingsdown Nursery have their archived files stored for 10 years.

Keys to all data is kept in the lockable cupboard in the Main Office in a key cabinet. All keys to the building, lockers and other school property are handed to the Headteacher when staff leave Kingsdown Nursery School.

INFORMATION SHARING

Sensitive personal data will only be disclosed with the informed consent of the data subject (except in the circumstances outlined below), and the signed consent form must be retained on the relevant case file. In some cases verbal consent may be given and this must be recorded accurately within the relevant case file. Consent cannot be assumed by a non-response to a request for consent.

There are circumstances in which personal data may be disclosed without obtaining the data subject's consent such as safeguarding the data subject or others, and to assist with the prevention and detection of crime. Wherever possible, express informed consent for sharing sensitive personal data will be sought from the data subject. Where this is not possible or contrary to the public interest, Kingsdown Nursery School will ensure that the sharing of data meets the relevant condition or exemptions from the non-disclosure provision contained within the Act.

As the Team around the Child (TAC) is a multi-disciplinary approach that brings a range of professionals together an information and sharing consent form must be signed by the parent and child.

SECURE TRANSFER OF DATA

The transfer of data in all formats (e.g. in writing, by email or fax, face to face or by phone) must be completed in a secure manner, ensuring the identity of the recipient has been verified. This will help prevent personal data being misplaced or disclosed in error.

WHITE MAIL

Paper based data must be delivered to a named individual using Royal Mail or a secure delivery service. Personal and sensitive information must be assessed by the Headteacher before posting. In certain circumstances it may be appropriate to consider the use of Recorded Delivery to protect information.

CONFIDENTIALITY

Personal data is provided in confidence and must be processed and used in accordance with the eight Data Protection principles and the Council's Privacy Notice. Wherever possible the data subject must be informed when we disclose data to a third party. (Please see Kingsdown Nursery's Confidentiality Policy).

When Kingsdown Nursery has a statutory duty to provide information in relation to a police investigation, or where an individual is at risk of harm, information may be disclosed without notifying from the data subject.

FREEDOM OF INFORMATION

Information for pupil personal data from parents/carers will be by written request. A response to be given within 15 working days. Charges will vary from £1 to £50 depending on amount of sheets needed.