
FAIR PROCESSING & DATA PROTECTION POLICY

Safeguarding and Welfare Requirements: Safeguarding & Promoting Welfare

Providers must maintain records, policies and procedures required for the safe and efficient management of the settings and to meet the needs of the children.

POLICY STATEMENT

St Teath Pre-school is fully committed to compliance with the requirements of the Data Protection Act 1998. Procedures will be followed to ensure that all who have access to any personal data, including manual records containing personal data such as employee personnel files, held by, or on behalf of the setting, are fully aware of and abide by their duties and responsibilities under the Act.

Any personal information that is collected, whether it be on paper, in computer records or recorded by any other means, will be handled and dealt with properly. There are safeguards within the Act to ensure this. St Teath Pre-school will ensure that it treats personal information lawfully and correctly. In a situation where a person is in any doubt about what information they may or may not disclose, and to whom, they will not disclose any personal information until they have sought advice from the Manager or member of the committee.

All employees are reminded that any unauthorised attempt to gain access to personal data, or accessing such data, is a disciplinary offence and in certain situations may constitute gross misconduct leading to instant dismissal. Such breaches may also constitute a criminal offence under the Data Protection Act 1998.

Fair Processing

Data Protection Act 1998

General Data Protection Regulation update 2018

Early Years Settings, Schools, Local Authorities (LAs), the Secretary of State for Children, Schools and

Families and the Department for Children, Schools and Families (DCSF), (the government department which deals with education and children's services), the Qualifications and Curriculum.

Authority (QCA), Her Majesty's Chief Inspector of Education, Children's Services and Skills (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 Data Protection Act 1998. This means, among other things, that the data held about children, must only be used for specific purposes allowed by law.

St Teath Pre-school 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 Local Authorities, the DCSF and to agencies that are prescribed by law, such as QCA and Ofsted. In particular, at age five and assessment is made of all children (the Foundation Stage Profile) and this information is passed to the Local Authority, the receiving maintained school and the DCSF.

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.

The Qualifications and Curriculum Authority uses information about children to administer national assessments such as the Foundation Stage Profile. Any results passed on to the DCSF 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 of Education Children's Services and Skills and Ofsted do not routinely process any information about individual children. However, whilst Ofsted holds no records of individual children's progress it does use information about the achievement of groups of children to help inform its judgements about the quality of Education in Early Years Settings.

The National Assessment Agency 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 Secretary of State for Children, Schools and Families and the Department for Children, Schools and Families (DCSF) use 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 DCSF 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 DCSF 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 DCSF 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.

The Children Act 2004 permits the disclosure of information from registered childcare providers for inclusion on Contact Point. The purposes of Contact Point are to:-

- Help practitioners working with children quickly identify a child with whom they have contact
- Determine whether that child is getting the universal services (education primary health care) to which he or she is entitled
- Enable earlier identification of needs and earlier, more effective action to address these needs by providing a tool to help practitioners identify which other practitioners are involved with a particular child
- Encourage better communication and closer working between practitioners

Contact Point will hold for each child or young person in England (up to their 18th birthday)

- Basic identifying information: name, address, gender, date of birth and an identifying number
- Name and contact details for a child's parent or carer
- Contact details for services involved with a child: as a minimum educational setting (e.g. school) and primary medical practitioner (e.g. GP practice) but also other services where appropriate
- The facility to indicate if a practitioner is a lead professional for a child and/or if an assessment under the Common Assessment Framework has been completed

Contact Point will NOT contain any case information (such as case notes, assessments, attendance, exam results, medical records or subjective observations). Access will be strictly limited to those who need it to do their job. All authorised users must have undergone relevant mandatory training, have security clearance and have a user name, a password, a PIN and a security token to access Contact Point. To ensure high standards of accuracy, information on Contact Point will be drawn from a number of existing systems including the termly school Census from which pupil's home address will be collected.

For further information go to www.everychildmatters.gov.uk/contactpoint

Children, as data subjects, have certain rights under the Data Protection Act 1998, including a general right of access to personal data held on them, with parents exercising 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:

- The Early Years Setting at their setting address
- The Local Authority
- The QCA's Data Protection Officer at QCA, 83 Piccadilly, and LONDON, W1J 8QA
- Ofsted's Data Protection Officer at Alexandra House, 33 Kingsway, London WC2B 6SE
- The National Assessment Agency Data Protection Officer at NAA, 29 Bolton Street, London W1J 8BT

- The DCSF's Data Protection Officer at DCSF, Sanctuary Buildings, London SW1P 3BT

In order to fulfil their 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.

Aims

We aim to endorse and fully adhere to the principles of Data Protection as set out in the Data Protection Act 1998. Our policies and procedures enable us to meet the requirements of the Data Protection Act 1998 with regard to the information we gather from or about families, how we gather it, store it and use it.

We ensure that all parent and carers can share their information in the confidence that it will only be used to enhance the welfare of their children. We are committed to meeting the requirements of the Human Rights Act 1998 with regard to protecting the individual's rights to a private and family life, home and correspondence. Our only justification to interfering with this is if we believe that a child may be at risk of significant harm or to prevent a crime or disorder.

We uphold the Common Law Duty of Confidentiality and only share information with other professionals or agencies on a 'need to know' basis, with consent from parents, or without their consent in specified circumstances with regard to safeguarding children.

The Principles of Data Protection

The Act stipulates that anyone processing personal data must comply with Eight Principles of good practice. These Principles are legally enforceable.

1. Data shall be processed fairly and lawfully and in particular, and shall not be processed unless specific conditions are met
2. Data shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes
3. Data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed
4. Data shall be accurate, and where necessary, kept up to date
5. Data shall not be kept for longer than is necessary for that purpose or those purposes

6. Data shall be processed in accordance with the rights of data subjects under the Act

7. Data shall be kept secure i.e. protected by an appropriate degree of security

8. 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

9. 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

The Act provides conditions for the processing of any personal data. It also makes a distinction between personal data and "sensitive" personal data.

Personal data is defined as data relating to a living individual who can be identified from:

- That data
- That data and other information which is in the possession of, or is likely to come into the possession of the data controller and includes an expression of opinion about the individual and any indication of the intentions of the data controller, or any other person in respect of the individual

Sensitive personal data is defined as personal data consisting of information as to:

- Racial or ethnic origin
- Political opinion
- Religious or other beliefs
- Trade union membership
- Physical or mental health or condition
- Sexual life
- Criminal proceedings or conviction: alleged or committed

Handling of Personal / Sensitive Information

St Teath Pre-school will, through appropriate management and the use of strict criteria and controls:

- Observe fully conditions regarding the fair collection and use of personal information
- Meet its legal obligations to specify the purpose for which information is used
- Collect and process appropriate information and only to the extent that it is needed to fulfil operational needs or to comply with any legal requirements
- Ensure the quality of information used
- Apply strict checks to determine the length of time information is held - Personnel files will not be kept for longer than six years after termination of employment
- Take appropriate technical and organisational security measures to safeguard personal information
- Ensure that personal information is not transferred abroad without suitable safeguards
- Ensure that the rights of people about whom the information is held can be fully exercised under the Act - these include:

The right to be informed that processing is being undertaken

The right of access to one's personal information within the statutory 40 days

The right to correct, rectify, block or erase information regarded as incorrect information

If an individual feels that their rights are not being recognised or upheld, they should discuss the matter with the Manager or Committee Chair following guidance within the setting's complaints procedure. If the matter is not resolved satisfactorily, the complaint should be raised as a formal grievance following the setting's grievance procedure.

St Teath Pre-school Will Ensure:

- The Manager and Committee Chair have specific responsibility for data protection in the setting

- Everyone managing and handling personal information understands that they are contractually responsible for following good data protection practice
- Everyone managing and handling personal information is appropriately trained to do so
- Confidential personal information will only be given to the data subject and not to any other unauthorised third party unless explicit consent has been given by the data subject
- Everyone managing and handling personal information is appropriately supervised
- Methods of handling personal information are regularly assessed and evaluated
- Queries or concerns about the handling or security of personal information will be dealt with promptly and courteously by the Manager or Committee Chair in the first instance

The Manager and the Committee will take steps to ensure that personal data is kept secure at all times against unauthorised or unlawful loss or disclosure and in particular will ensure that:

- Paper files and other records or documents containing personal/sensitive data are kept securely in filing cabinets in the office. Only authorised persons are allowed access to the filing cabinets
- Personal data held on computers and computer systems is protected by the use of secure passwords, which where possible have forced changes periodically
- Visitors to the setting are required to sign in and out

Employee Consent to Personal Information Being Held

St Teath Pre-school holds personal data about all employees and by signing the Terms and Conditions of Employment each employee consents to that data being processed. Agreement to the processing of personal data is a condition of employment. Employees give their explicit consent to the holding and processing of sensitive personal data, such as sickness/absence records, health needs and equal opportunities monitoring data, when contracts are signed.

Personal data includes, but is not limited to:

- Third-party employment references
- Employment reports or assessments, including performance reviews
- Disciplinary details, including formal or informal warnings
- Grievance procedures and outcomes
- Salary reviews, benefit records and expenses claims
- Health records

External Data Processing

If a situation arises where the setting uses third parties to process data and provide services, reasonable steps will be taken to ensure that such third parties have their own data protection policies in place.

Photography

The Act does apply when photographs of children are taken for official use by the setting. In some instances where the Data Protection Act does apply, if the photographer obtains permission from the parent, this will usually be enough to ensure compliance.

The Data Protection Act does not prevent family and friends from taking photographs at school concerts or plays.

The ICO has produced the following guidance to dispel any confusion and explain parents' rights under the Act. The guidance explains that the Data Protection Act is unlikely to apply in most situations where photographs are taken by parents in schools.

Where the Act does apply, a common sense approach suggests that if the photographer asks for permission to take a photograph, this will usually be enough to ensure compliance.

- Photos taken for official school use may be covered by the Act and pupils and students should be advised why they are being taken
- Photos taken purely for personal use are exempt from the Act