

27 DATA PROTECTION(GDPR) POLICY

Company Name: Tender Years Nursery Ltd
Setting Name: Little Jems Childcare Services
Policy Date: 16th June 2023 Next Review Date: 1^{4th} June 2024

Introduction

The General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) is a [regulation](#) by which the [European Parliament](#), the [European Council](#) and the [European Commission](#) intend to strengthen and unify data protection for individuals within the [European Union](#) (EU). It also addresses the export of personal data outside the EU. The primary objectives of the GDPR are to give citizens back control of their personal data and to simplify the regulatory environment for international business by unifying the regulation within the EU. When the GDPR takes effect it will replace the [data protection directive \(officially Directive 95/46/EC\)](#) from 1995. The regulation was adopted on 27 April 2016 and applies from 25 May 2018 after a two-year transition period..

The 1998 Data Protection Act, which came into force on 1 March 2000, will continue to apply until the new General Data Protection Regulations come into force in May 2018.

The following guidance is not a definitive statement on the Regulations, but seeks to interpret relevant points where they affect Little Jems Childcare Services

The Regulations cover both written and computerised information and the individual's right to see such records.

It is important to note that the Regulations also cover records relating to staff, Children and volunteers.

All Little Jems Childcare Services staff are required to follow this Data Protection Policy at all times.

Joy Abbe has overall responsibility for data protection within Little Jems Childcare Services but each individual processing data is acting on the controller's behalf and therefore has a legal obligation to adhere to the Regulations.

Definitions

Processing of information – how information is held and managed.

Information Commissioner - formerly known as the Data Protection Commissioner.

Notification – formerly known as Registration.

Data Subject – used to denote an individual about whom data is held

Data Controller – used to denote the entity with overall responsibility for data collection and management. Little Jems Childcare Services is the Data Controller for the purposes of the Act.

Data Processor – an individual handling or processing data

Personal data – any information which enables a person to be identified

Special categories of personal data – information under the Regulations which requires the individual's explicit consent for it to be held by the Nursery.

Data Protection Principles

As data controller, Little Jems Childcare Services is required to comply with the principles of good information handling.

These principles require the Data Controller to:

Process personal data **fairly, lawfully and in a transparent manner.**

Obtain personal data only for one or more **specified and lawful purposes**

and to ensure that such data is not processed in a manner that is incompatible with the purpose or purposes for which it was obtained.

Ensure that personal data is **adequate, relevant and not excessive** for the purpose or purposes for which it is held.

Ensure that personal data is **accurate** and, where necessary, **kept up-to-date.**

Ensure that personal data is not kept for any longer than is necessary for the purpose for which it was obtained.

Ensure that personal data is kept secure.

Ensure that personal data is not transferred to a country outside the European Economic Area unless the country to which it is sent ensures an adequate level of protection for the rights (in relation to the information) of the individuals to whom the personal data relates.

Consent

Little Jems Childcare Services must record service users' explicit consent to storing certain information (known as 'personal data' or 'special categories of personal data') on file.

For the purposes of the Regulations, personal and special categories of personal data covers information relating to:

The racial or ethnic origin of the Data Subject.

His/her political opinions.

His/her religious beliefs or other beliefs of a similar nature.

Whether he/she is a member of a trade union.

His/her physical or mental health or condition.

His/her sexual life.

The commission or alleged commission by him/her of any offence

Online identifiers such as an IP address

Name and contact details

Genetic and/or biometric data which can be used to identify an individual

Special categories of personal information collected by Little Jems Childcare Services will, in the main, relate to children's development and well-being. Data is also collected on ethnicity and held confidentially for statistical purposes.

Consent is not required to store information that is not classed as special category of personal data as long as only accurate data that is necessary for a service to be provided is recorded.

As a general rule Little Jems Childcare Services will always seek consent where personal or special categories of personal information is to be held.

It should also be noted that where it is not reasonable to obtain consent at the time data is first recorded and the case remains open, retrospective consent should be sought at the earliest appropriate opportunity.

If personal and/or special categories of personal data need to be recorded for the purpose of service provision and the Person refuses consent, the case should be referred to the Nursery Manager and Joy Abbe who will discuss further with the Person and evaluate if there is a need to share information or not.

Obtaining Consent

Consent may be obtained in a number of ways depending on the nature of the interview, and consent must be recorded on or maintained with the case records:

face-to-face
written
telephone
email.

Face-to-face/written

An appropriate form should be used.

Telephone

Verbal consent should be sought and recorded for future reference.

E-mail

The initial response should seek consent.

Consent obtained for one purpose cannot automatically be applied to all uses e.g. where consent has been obtained from a Parent in relation to information needed for the provision of that service, separate consent would be required if, for example, if

Preliminary verbal consent should be sought at point of initial contact as personal and/or special categories of personal data will need to be recorded either in an email or on a written. The verbal consent is to be recorded in the appropriate written record or stated in the email for future reference. Although written consent is the optimum, verbal consent is the minimum requirement.

Specific consent for use of any photographs and/or videos taken should be obtained in writing from parents. Such media could be used for, but not limited to, publicity material, press releases, social media, and website. Consent should also indicate whether agreement has been given to their name being published in any associated publicity.

Individuals have a right to withdraw consent at any time. If this affects the provision of a service at Little Jems Childcare Services then the Staff should discuss with the Nursery Manager at the earliest opportunity.

Ensuring the Security of Personal Information

Unlawful disclosure of personal information

1. It is an offence to disclose personal information 'knowingly and recklessly' to third parties.

It is a condition of receiving a service that all parents for whom we hold personal details sign a consent form allowing us to hold such information.

Parents may also consent for us to share personal or special categories of personal information with other helping agencies on a need to know basis.

Any individual consent to share information should always be checked before disclosing personal information to another agency.

Where such consent does not exist information may only be disclosed if it is in connection with criminal proceedings or in order to safeguard children and prevent substantial risk to the individual concerned. In either case permission of Joy Abbe or Nursery Manager should first be sought.

Personal information should only be communicated within Little Jems Childcare Services staff and volunteer team on a strict need to know basis. Care should be taken that conversations containing personal or special categories of personal information may not be overheard by people who should not have access to such information.

Use of Files, Books and Paper Records

In order to prevent unauthorised access or accidental loss or damage to personal information, it is important that care is taken to protect personal data. Paper records should be kept in locked cabinets/drawers overnight and care should be taken that personal and special categories of personal information is not left unattended and in clear view during the working the day. If your work involves you having personal / and/or special categories of personal data at home or in your car, the same care needs to be taken.

Disposal of Scrap Paper, Printing or Photocopying Overruns

Be aware that names/addresses/phone numbers and other information written on scrap paper are also considered to be confidential. Please do not keep or use any scrap paper that contains personal information but ensure that it is shredded.

Computers

Where computers are networked, access to personal and special categories of personal information is restricted by password to authorised personnel only.

Computer monitors in the reception area, or other public areas, should be positioned in such a way so that passers-by cannot see what is being displayed. If this is not possible then privacy screens should be used on the monitor to afford this level of protection. If working in a public area, eg Office reception, you should lock your computer when leaving it unattended.

Firewalls and virus protection to be employed at all times to reduce the possibility of hackers accessing our system and thereby obtaining access to confidential records.

Documents should only be stored on the server or cloud-based systems and not on individual computers.

Where computers or other mobile devices are taken for use off the premises the device must be password protected.

Cloud Computing

When commissioning cloud based systems, Little Jems Childcare Services will satisfy themselves as to the compliance of data protection principles and robustness of the cloud based providers.

Direct Marketing

Direct Marketing is a communication that seeks to elicit a measurable fundraising response (such as a donation, a visit to places of interest, sign up to Gift Aid, etc.). The communication may be in any of a variety of formats including mail, telemarketing and email. The responses should be recorded to inform the next communication. Little Jems Childcare Services will not share or sell its database(s) with outside organisations.

Little Jems Childcare Services holds information on our staff, volunteers, Parents and Children and other agencies working with children such as Local Education Authority and Health Services, to whom we will from time to time send copies of our newsletters, and details of other activities that may be useful to support children/care and well-being. Specific consent to contact will be sought from our Parents, clients and other agencies, including which formats they prefer (eg mail, email, phone etc) before making any communications.

We recognise that Parents, staff, volunteers and agencies for whom we hold records have the right to unsubscribe from our mailing lists. This wish will be recorded on their records and will be excluded from future contacts.

Implementation and Quality Assurance

Implementation is immediate and this Policy shall stay in force until any alterations are formally agreed.

The Policy will be reviewed every two years by Joy Abbe, sooner if legislation, best practice or other circumstances indicate this is necessary.

All aspects of this Policy shall be open to review at any time. If you have any comments or suggestions on the content of this policy please contact us directly.

We promise never to share or sell your information to other organisations or businesses and you can opt out of our communications at any time by telephoning 02083123098, writing to Little Jems Childcare Services, 39 Manor Close, Thamesmead, London SE28 8TY or by sending an email to joyfora@yahoo.co.uk

The following statement is to be included on any forms used to obtain personal data:

Privacy Statements

Any documentation which gathers personal and/or special categories of personal data should refer recipients to Little Jems Data Protection Policy to;

- Explain who we are
- What we will do with their data
- Who we will share it with
- Consent for marketing notice
- How long we will keep it for
- That their data will be treated securely
- How to opt out
- Where they can find a copy of the full notice

A fuller Privacy Statement will also be published on our website.

Personnel Records

The Regulations apply equally to volunteer and staff records. Little Jems Childcare Services may at times record special categories of personal data with the Staffs' consent or as part of a staff member's contract of employment.

For staff and volunteers who are regularly involved with vulnerable children, it will be necessary for Little Jems Childcare Services to apply to the Disclosure & Barring Service to request a disclosure of spent and unspent convictions, as well as cautions, reprimands and final warnings held on the police national computer. Any information obtained will be dealt with under the strict terms of the DBS Code. Access to the disclosure reports is limited to the Senior Management Team. If there is a positive disclosure this will be discussed with Joy Abbe, and anonymously with

our insurers to assess the risk of appointment. Trustees and insurers should not see the report itself.

Confidentiality

Further guidance regarding confidentiality issues can be found in our Confidentiality Policy.

When working from home, or from some other off-site location, all data protection and confidentiality principles still apply. All computer data, e.g. documents and programmes related to work for Little Jems Childcare Services should not be stored on any external hard disk or on a personal computer. If documents need to be worked on at a non-networked computer they should be saved onto a USB drive which should be password protected.

Workstations in areas accessible to the public, e.g. reception or trading office, should operate a clear desk practice so that any paperwork, including paper diaries, containing personal and/or special categories of personal data is not left out on the desk where passers-by could see it.

When sending emails to outside organisations, e.g. social worker or Local Authority staff, care should be taken to ensure that any identifying data is removed and that codes (e.g. initials or identifying code number, such as social services number, etc.) are to be used. Confidential and/or special categories of personal information should be written in a separate document which should be password protected before sending. Wherever possible, this document should be 'watermarked' confidential.

Any paperwork kept away from the nursery office should be treated as confidential and kept securely as if it were held in the office. Documents should not be kept in open view (eg on a desktop) but kept in a file in a drawer or filing cabinet as examples, the optimum being a locked cabinet but safely out of sight is a minimum requirement. .

Retention of Records

Paper records should be retained for the following periods at the end of which they should be shredded:

Children's records – 6 years after ceasing to be a at the nursery.

Staff records – 6 years after ceasing to be a member of staff.

Unsuccessful staff application forms – 6 months after vacancy closing date.

Volunteer records – 6 years after ceasing to be a volunteer.

Timesheets and other financial documents – 7 years.

Employer's liability insurance – 40 years.

Archived records should clearly display the destruction date.

What to Do If There Is a Breach

If you discover, or suspect, a data protection breach you should report this to your line manager who will review our systems, in conjunction with the Senior Management Team, to prevent a reoccurrence. The Nursery Manager and Joy Abbe should be informed of the breach, action taken and outcomes to determine whether it needs to be reported to the Information Commissioner and also for reporting to Joy Abbe. There is a time limit for reporting breaches to ICO so the Nursery Manager should be informed without delay.

Any deliberate or reckless breach of this Data Protection Policy by an employee or volunteer may result in disciplinary action which may result in dismissal.

The Rights of an Individual

Under the Regulations an individual has the following rights with regard to those who are processing his/her data:

Personal and special categories of personal data cannot be held without the individual's consent (however, the consequences of not holding it can be explained and a service withheld).

Data cannot be used for the purposes of direct marketing of any goods or services if the Data Subject has declined their consent to do so.

Individuals have a right to have their data erased and to prevent processing in specific circumstances:

- Where data is no longer necessary in relation to the purpose for which it was originally collected
- When an individual withdraws consent
- When an individual objects to the processing and there is no overriding legitimate interest for continuing the processing
- Personal data was unlawfully processed

An individual has a right to restrict processing – where processing is restricted, Little Jems Childcare Services is permitted to store the personal data but not further process it. Little Jems Childcare Services can retain just enough information about the individual to ensure that the restriction is respected in the future.

An individual has a 'right to be forgotten'.

Little Jems Childcare Services will not undertake direct telephone marketing activities under any circumstances.

Data Subjects can ask, in writing to the Nominated Person, to see all personal data held on them, including e-mails and computer or paper files. The Data Processor (Little Jems Childcare Services) must comply with such requests within 30 days of receipt of the written request.

Powers of the Information Commissioner

The following are criminal offences, which could give rise to a fine and/or prison sentence

The unlawful obtaining of personal data.

The unlawful selling of personal data.

The unlawful disclosure of personal data to unauthorised persons.

Further Information

Further information is available at www.informationcommissioner.gov.uk

Details of the Information Commissioner

The Information Commissioner's office is at:

Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Date Updated- 16th June 2023

Review- This information will be reviewed annually