



A REGISTERED CHARITY, Charity Number 1026054
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19. Record Keeping Policy Data Protection

Aims of Policy

This policy is intended to provide information about how the Pre-School will use (or “process”) personal data about individuals, including: its staff (past and present); the committee members (past and present); its current, past and prospective children; and their parents, carers or guardians (referred to in this policy as “parents”).

This information is provided because Data Protection Law gives individuals rights to understand how their data is used. Staff and parents are all encouraged to read this policy and understand the Pre-School’s obligations to its entire community.

This Policy, like our other policies, may be updated from time to time. For the most up to date version of the Policy, please request a copy from the Data Protection Officer (“DPO”), the Committee Secretary, on secretary.seer.green.preschool@gmail.com.

Introduction

This policy on Data Protection applies alongside the ‘Record Keeping Policy – Privacy’ (Policy 20) and any other information the Pre-School may provide about a particular use of personal data, for example when collecting data via an online or paper form. It also applies in addition to the Pre-School’s other relevant terms and conditions and policies, including:

- any contract between the Pre-School and its staff or the parents of children;
- the Pre-School’s consents and policies regarding taking and storing of images; and
- the Pre-School’s safeguarding, pastoral, or health and safety policies, including as to how concerns or incidents are recorded.

Anyone who works for, or acts on behalf of, the Pre-School (including staff, volunteers, committee members and service providers) should also be aware of and comply with this Policy.

Data Compliance

The Pre-School complies fully with current data protection legislation with regards to the safe handling, use, storage, retention and disposal of data, in line with this and other policies. In addition, the Pre-School also complies with data requirements laid out by third parties where required, including the DBS Code of Practice, and data sharing requirements (under the Childcare Act 2016 and related regulations) with Buckinghamshire County Council (BCC) and the Department for Education (DfE).

Responsibility for Data Protection

The Pre-School has appointed the Committee Secretary as DPO, who will deal with all your requests and enquiries concerning the Pre-School's uses of your personal data. They will endeavour to ensure that all personal data is processed in compliance with this policy and Data Protection Law. Requests and enquiries should be sent to the Committee Secretary at secretary.seer.green.preschool@gmail.com.

Why the Pre-School Needs To Process Personal Data

In order to carry out its ordinary duties to staff, children and parents, the Pre-School needs to process a wide range of personal data about individuals (including current, past and prospective staff, committee members, children or parents) as part of its daily operation.

Some of this activity the Pre-School will need to carry out in order to fulfil its **legal obligation**, duties or rights – including those under a contract with its staff, or parents of its children. Other uses of personal data will be made in accordance with either **consent** obtained from the staff or parents of its children or the Pre-School's **legitimate interests**, or the legitimate interests of another. This is on the premise that using the personal data is not outweighed by the impact on individuals, and that it does not involve special or sensitive types of data.

A Data Register is kept to reflect the data we receive, process and dispose of, and this records the type of basis we process data on – legal obligation, consent or legitimate interests. For the purpose of the Pre-School's data handling, we process data on a **legal obligation** lawful basis. However, the breakdown of how each item of data is processed and the basis for the specific item is covered in the Data Register. This can be made available on request via the DPO.

In addition, the Pre-School will on occasion need to process special category personal data (concerning health, ethnicity, religion or biometrics) or criminal records information (such as when carrying out DBS checks) in accordance with rights or duties imposed on it by law, including safeguarding and employment, or from time to time by explicit consent where required. These reasons will include:

- To safeguard children's welfare and provide appropriate pastoral (and where necessary, medical) care;
- To take appropriate action in the event of an emergency, incident or accident, including by disclosing details of an individual's medical condition or other relevant information where it is in the individual's interests to do so;

[Examples of the two points above include for medical advice, for social protection, safeguarding, and cooperation with police or social services, for insurance purposes or for those providing food for the children who need to be made aware of dietary or medical needs.]

- To provide educational services in the context of any special educational needs of a child;
- To provide spiritual education in the context of any religious beliefs;
- In connection with employment of its staff, for example DBS checks, welfare, union membership or pension plans;
- As part of any Pre-School or external complaints, disciplinary or investigation process that involves such data, for example if there are SEN, health or safeguarding elements; or
- For legal and regulatory purposes (for example child protection, diversity monitoring and health and safety) and to comply with its legal obligations and duties of care.

This special category data is also processed under a **legal obligation** lawful basis.

All data is used for the specific purpose it is collected for, with appropriate legal obligation, legitimate interest or consent being obtained for the collection, processing and disposal of the data.

Types of Personal Data Processed By the Pre-School

This will include by way of example:

- names, addresses, telephone numbers, e-mail addresses and other contact details;
- car details (about those who use our car parking facilities);
- bank details and other financial information, e.g. about parents who pay fees to the Pre-School;
- past, present and prospective children's information we are required to retain for specified periods by law, including for example details of accidents and funding records;
- where appropriate, information about individuals' health and welfare, and contact details for their next of kin;
- information given or received by the Pre-School about children, and relevant information provided by previous educational establishments and/or other professionals or organisations working with children;
- information obtained from the Disclosure and Barring Service (DBS) with regards to suitability for working with children in relation to staff, Committee Members and volunteers;
- correspondence with and concerning staff, children and parents past and present; and
- images of children (and occasionally other individuals) engaging in Pre-School activities.

How the Pre-School Collects Data

Generally, the Pre-School receives personal data from the individual directly (including, in the case of children, from their parents). This may be via a form, or simply in the ordinary course of interaction or communication (such as email or written assessments).

However, in some cases personal data will be supplied by third parties (for example another pre-school, nursery or other professionals or authorities working with that individual); or collected from publicly available resources.

Who Has Access To Personal Data And Who the Pre-School Shares It With

Occasionally, the Pre-School will need to share personal information relating to its community with third parties, such as:

- professional advisers (e.g. lawyers, insurers and accountants);
- other settings a child attends, where appropriate to do so;
- government authorities (e.g. HMRC, DfE, police or the local authority); and
- appropriate regulatory bodies.

For the most part, personal data collected by the Pre-School will remain within it, and will be processed by appropriate individuals in accordance with access protocols (i.e. on a 'need to know' basis). Particularly strict rules of access apply for medical records and pastoral or safeguarding files.

However, a certain amount of any SEND child's relevant information will need to be provided to staff more widely in the context of providing the necessary care and education that the child requires. Staff, Committee, children and parents are reminded that the Pre-School is under duties imposed by law and statutory guidance (including "Keeping Children Safe in Education") to record or report incidents and concerns that arise or are reported to it, in some cases regardless of whether they are proven, if they meet a certain threshold of seriousness in their nature or regularity. This is likely to include file notes on personnel or safeguarding files, and in some cases referrals to relevant authorities such as the LADO or police. For further information, please view the Pre-School's Safeguarding Policies (Policies 22 - 30).

Finally, in accordance with Data Protection Law, some of the Pre-School's processing activity is carried out on its behalf by third parties, such as IT systems, web developers or cloud storage providers. This is always subject to contractual assurances that personal data will be kept securely and in accordance with Data Protection Law.

How Long We Keep Personal Data (Retention)

The Pre-School will retain personal data securely and only in line with how long it is necessary to keep for a legitimate and lawful reason. Some data is therefore only kept for a few years, whereas other data may be kept longer if legally required. The appendix to this Policy highlights our retention periods and reasoning behind these periods.

If you have any specific queries about how our retention policy is applied, or wish to request that personal data that you no longer believe to be relevant is considered for erasure, please contact the DPO at secretary.seer.green.preschool@gmail.com. However, please bear in mind that the Pre-School will often have lawful and necessary reasons to hold on to some personal data even following such request.

A limited and reasonable amount of information will be kept for archiving purposes, for example; and even where you have requested we no longer keep in touch with you, we will need to keep a record of the fact in order to fulfil your wishes (called a “suppression record”).

Storage, Access & Handling

Data is kept securely in lockable non-portable storage containers, or in a locked area, with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Where data is handled, this is limited to those who are required to see it, all of whom are bound by confidentiality requirements. It is a criminal offence to pass on any of the data seen to anyone who is not entitled to see it.

Keeping In Touch and Supporting the Pre-School

The Pre-School will use the contact details of parents and other members of the Pre-School community to keep them updated about the activities of the Pre-School, including by sending updates and newsletters, by email and by post.

Should you wish to limit or object to any such use, or would like further information about them, please contact the DPO in writing. You always have the right to withdraw consent, where given, or otherwise object to direct marketing or fundraising. However, the Pre-School is nonetheless likely to retain some of your details (not least to ensure that no more communications are sent to that particular address, email or telephone number).

Your Rights

Rights of access

Individuals have various rights under Data Protection Law to access and understand personal data about them held by the Pre-School, and in some cases ask for it to be erased or amended or have it transferred to others, or for the Pre-School to stop processing it – but subject to certain exemptions and limitations.

Any individual wishing to access or amend their personal data, or wishing it to be transferred to another person or organisation, or who has some other objection to how their personal data is used, should put their request in writing to the Data Protection Officer.

The Pre-School will endeavour to respond to any such written requests as soon as is reasonably practicable and in any event within statutory time-limits, which is one month in the case of requests for access to information. The Pre-School will be better able to respond quickly to smaller, targeted requests for information. If the request for information is manifestly excessive or similar to previous requests, the Pre-School may ask you to reconsider, or require a proportionate fee but only where Data Protection Law allows it.

Requests that cannot be fulfilled

You should be aware that the right of access is limited to your own personal data, and certain data is exempt from the right of access. This will include information which identifies other individuals, or information which is subject to legal privilege (for example legal advice given to or sought by the Pre-School, or documents prepared in connection with a legal action).

The Pre-School is also not required to share any confidential reference received / given by the Pre-School itself for the purposes of the education, training or employment of any individual.

You may have heard of the “right to be forgotten”. However, we will sometimes have compelling reasons to refuse specific requests to amend, delete or stop processing your (or your child’s) personal data: for example, a legal requirement, or where it falls within a legitimate interest identified in this Privacy Notice. All such requests will be considered on their own merits.

Child requests

While children can make subject access requests for their own personal data, the Pre-School believes they are unlikely to have sufficient maturity to understand the request they are making. A child of any age may ask a parent or other representative to make a subject access request on their behalf. Indeed, while a person with parental responsibility will generally be entitled to make a subject access request on behalf of the child, the law still considers the information in question to be the child’s and therefore we may request evidence of consent to share the data. All subject access requests will therefore be considered on a case by case basis.

Parental requests, etc.

Parents may not have a statutory right to information, but they and others will often have a legitimate interest or expectation in receiving certain information about the child without their consent, particularly where the child is younger as the Pre-School children are. Therefore, the Pre-School may share information without consent from a child. Where parents are separated, the Pre-School will in most cases aim to provide the same information to each person with parental responsibility, but will again review requests on a case by case basis.

Consent

Where the Pre-School is relying on consent as a means to process personal data, any person may withdraw this consent at any time. Please be aware however that the Pre-School may not be relying on consent but have another lawful reason to process the personal data in question even without your consent. That reason will usually have been asserted under this Privacy Notice, or may otherwise exist under some form of contract or agreement.

Whose rights?

The rights under Data Protection Law belong to the individual to whom the data relates. However, the Pre-School will often rely on parental authority or notice for the necessary ways it processes personal data relating to children – for example, under the parent contract, or via a form. Parents and children should be aware that this is not necessarily the same as the Pre-School relying on strict consent (see section on Consent above).

The Pre-School will assume that children’s consent is not required for ordinary disclosure of their personal data to their parents, e.g. for the purposes of keeping parents informed about the child’s activities, progress and behaviour, and in the interests of the child’s welfare.

Data Accuracy and Security

The Pre-School will endeavour to ensure that all personal data held in relation to an individual is as up to date and accurate as possible. Individuals must please notify the Data Protection Officer, Pre-School Manager and / or Operations Manager of any significant changes to important information, such as contact details, held about them.

An individual has the right to request that any out-of-date, irrelevant or inaccurate data or information about them is erased or corrected (subject to certain exemptions and limitations under Data Protection Law): please see above for details of why the Pre-School may need to process your data, and who you may contact if you disagree.

We are committed to ensuring that your personal data is secure. In order to prevent unauthorised access or disclosure, we have put in place physical, electronic and managerial procedures to safeguard and secure the information we collect.

We recognise that processing data, particularly online, comes with risks and whilst we do our best to ensure data is held securely, we will inform any relevant party should a data breach occur, in accordance with current legislation. To avoid breaches, we review data collection, processing and disposal to highlight areas of concern for review and addressing.

To support online security, we would recommend all parents, staff, volunteers and Committee Members ensure electronic devices have up to date security software installed, and that passwords are not shared with others, changed regularly and not written down.

All staff and the Pre-School Committee will be made aware of this Policy and their duties under Data Protection Law and receive relevant training.

Disposal

Once the retention period has elapsed, we will ensure that any information is destroyed by secure means, e.g. by shredding, pulping or burning of hard copies, and full erasure of all electronic copies. We will not keep any photocopy or other image of the data for disposal. However, we may retain certain information as deemed appropriate, in accordance with data protection law and other regulation, and in line with the Pre-School's policies.

Queries and Complaints

Any comments or queries on this policy should be directed to the DPO at secretary.seer.green.preschool@gmail.com.

If an individual believes that the Pre-School has not complied with this policy or acted otherwise than in accordance with Data Protection Law, they should utilise the Pre-School's complaints (or grievance) procedure and should also notify the DPO. You can also make a referral to or lodge a complaint with the Information Commissioner's Office (ICO), although the ICO recommends that steps are taken to resolve the matter with the Pre-School before involving the regulator.

As with all the policies for Seer Green Pre-School, the Operational Plan should be referred to for the specific details of day to day operations of the Pre-School. In addition, any issues which arise in the course of a child's time with the Pre-School and that are related to a child's health and wellbeing, parent's or staff's concern, or the overall care and safety of our children, staff, parents and equipment will be dealt with in a professional and confidential manner in order to arrive at an appropriate outcome.

This policy was adopted on (date) _____

Signed on behalf of Seer Green Pre-School (Committee Chairperson) _____

This policy was reviewed as indicated below:

2018 created

May 2019 reviewed and updated

June 2020 reviewed

June 2021 reviewed

Record Keeping Policy Appendix

Data Protection – Retention Periods

The majority of the below retention periods reflect advice from Buckinghamshire County Council and refer to the following document - <https://schoolsweb.buckscc.gov.uk/gdpr/school-questions-issues>. In some cases, retention periods have been extended beyond the minimum required time in the referenced document. This may be for a number of reasons, including (but not limited to) multiple data sets on one document (e.g. parent and child data), cross referencing of data sets to another (e.g. registers kept for financial document retention for funding form purposes), or potential safeguarding and child protection issues. However, in all cases, data is held no longer than is deemed appropriate.

Each year the data (electronically and in hard copy) is reviewed twice – once in May and once in October. All expired items are then disposed of securely in line with this and other policies.

DATA CATEGORY	RETAIN (yrs)	DETAILED DATA REFERENCE
CHILD	Indefinitely (close + 50)	Children's details (name, DoB, address) - includes all starter pack information as well as any deferred school applications
PARENT	indefinitely (close + 50)	Parents details (on same form as child), as well as consent and online form for permissions/data protection
STAFF	leave + 7	Staff details - personal file
		include allegations of child protection against staff member
		Staff details - pre-employment vetting (inc CRB checks)
		Staff details - disciplinary
		Staff details - training (general)
		Accident forms and details
COMMITTEE	indefinitely	minutes - wet inked, including AGM minutes and voting at AGM/attendance
	date + 7	electronic minutes, agendas, reports, AGM papers, complaints
	new + 7	Policies - see procedures (L) as well
CLAIMS (INSURANCE)	case concluded + 3	Claims made against insurance policies - damage to property
	case concluded + 6	Claims made against insurance policies - personal injury
REGISTERS	date + 7	Daily record of children (attendance/staff)
ACCIDENT	DoB + 25	Accident child
INCIDENT	date + 20	Incident reports involving children

DATA CATEGORY	RETAIN (yrs)	DETAILED DATA REFERENCE
OFSTED & BUCKS CC	indefinitely	all correspondence with Ofsted and Bucks CC, inc EYFS
MEDICINE - CHILD	DoB + 25	Medicine - child
CREATED FOR CHILD	DON'T	Record of transfer
CREATED BY CHILD	DON'T	Portfolio of work
CHILD DOCS	DON'T	Birth certificate
PROCEDURES	(ELECTRONIC ONLY) new + 7	Procedure - Fire or accident
		Procedure - Lost non collected child
		Procedure - complaint
INSURANCE	indefinitely	Insurance policies - Employers Liability
PREMISES	Indefinitely (close + 7)	Premises files (relating to maintenance)
SAFEGUARDING & SIGNIFICANT BUMPS	Indefinitely (close + 50)	Procedure - safeguarding inc abuse/neglect
		Include significant bump records
		include transfer letters to other organisations
FINANCIAL	date + 7	include child protection files
		Financial records - accounts, statements, invoices, petty cash include funding forms in this
RISK ASSESS	date + 3	Risk Assessments
CHARITY	indefinitely	all documents relating to charity commission / charity status
SEND FILES	DoB + 25	All documents relating to special educational needs and disabilities
PERMISSION SLIPS	DoB + 25	Only keep where incident occurred (destroy others after trip), then keep all permission slips from that trip
VISITORS BOOK	date + 3	Log book recording visitors attending the pre-school