



10.6 Data Protection and Confidentiality

Policy Statement

We recognise that parents have rights regarding the way personal data is handled. When carrying out our duties we will collect, store and process personal data about children, families and staff. We recognise that lawful treatment of this data will maintain confidence in the setting. This Data Protection and Confidentiality policy ensures our lawful and reasonable use of such data.

We recognise that parents have a right to know that the information they share with us will be regarded as confidential, as well as to be informed about the circumstances when, and the reasons why we are obliged to share information.

Procedures

Collecting and processing Personal Data

We adhere to the principles relating to the processing of **Personal Data** (any information which directly or indirectly identifies an individual) set out in the UK General Data Protection Regulation 2018 (“GDPR” which replaces the Data Protection Act 1998) which requires Personal Data to be:

- Processed lawfully, fairly and in a transparent manner.
- Collected for specified, explicit and legitimate purposes.
- Adequate, relevant and limited to only what is necessary.
- Accurate and where necessary, kept up-to-date.
- Kept in an identifiable form only as long as is necessary for its intended purpose.
- Processed in a secure manner that protects against unauthorised or unlawful access, accidental loss, destruction or damage.
- Not transferred to another country without appropriate safeguards being in place.
- Available to the individual it concerns who has rights regarding its management.

We adhere to the UK GDPR which allows processing of a **Data Subject’s** (an identifiable individual about whom we hold Personal Data) Personal Data for specific purposes such as:

- Consent – the individual has given clear consent for us to process their personal data for a specific purpose. Some of the data we collect for example photographs, requires parents to give consent for us to do so. Where this is the case, parents will be required to sign a consent form to ‘opt in’ and are made aware that they have the right to withdraw their consent at any time.
- Contract – the processing is necessary for a contract we have with the individual, or because they have asked you to take specific steps before entering a contract. We may also be required



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to collect data as part of parent's contract with the setting or local authority, for example for us to claim government funding.

- Legal obligation – the processing is necessary for us to comply with the law (not including contractual obligations). This applies to the majority of data we collect such as names, date of birth and addresses as we have a legal requirement to obtain this data as part of the Statutory Framework for the Early Years Foundation Stage and Ofsted requirements.
- Vital interests – the processing is necessary to protect someone's life.
- Public task – the processing is necessary for us to perform a task in the public interest or for our official functions, and the task or function has a clear basis in law.
- Legitimate interests – the processing is necessary for our legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

Security and confidentiality

- We have in place procedures and technologies which aim to protect against unauthorised change, damage, loss or theft of data, this includes all paper forms being kept locked away and all computers and tablets being password protected.
- Staff must follow all procedures and technologies put in place to maintain the security of all Personal Data and personal information by ensuring that:
 - it is kept securely whilst remaining accessible;
 - only people who have a need to know and are authorised to use/access Personal Data and personal information can access it; and
 - authorised users can access the Personal Data and personal information when they need it for authorised purposes.
- When working from home the 'Work from Home Agreement' and the 'Work from Home Agreement – Self Assessment Checklist' must be completed beforehand and agreed by their supervisor.
- All electronic devices must be configured to high security standards, password protected and documents saved in Google Drive.

Sharing Personal Data and personal information

- All parents and staff are provided our privacy notice (see **Appendix 1**) which informs them of our procedures around how and why we collect data, information sharing, security, data retention, access to their records and our commitment to compliance with the UK GDPR.
- If staff talk to parents about any causes or concern, e.g. unsociable behaviour, this should be done out of hearing of the child(ren) in question, other children and other parents/carers.
- Issues to do with the employment of staff, whether paid or unpaid, remain confidential to the people directly involved with making personnel decisions.



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- Any requests for data/information should be made in writing and must immediately be forwarded to the Pre-School Manager or Deputy.
- The Manager must verify the identity of an individual requesting data under any of the rights above.
- The information would be made available within 40 days of the request.
- A fee may be charged for repeated requests, or where a request requires excessive administration to fulfil.
- Where data/information is shared, we record the reasons for doing so in the child's file; where it is decided that data/information is not to be shared that is recorded too.
- Information disclosed should be clear, with any codes, technical terms, abbreviations, or acronyms explained. If information contained within the disclosure is difficult to read or illegible, it will be retyped.
- When redaction (blacking out or obscuring data) has taken place, then a full copy of the information provided will be retained. This will be of assistance if a complaint is made, to establish what was redacted and why.
- If a parent feels aggrieved about entries in their child's file or the sharing of information with third parties, then we refer the parent to our Complaints policy. The complainant may wish to take the matter further and may be referred to the Information Commissioners Office (ICO).
- Requests for Educational Records - The Education Pupil Information (England) Regulations 2005 cover the rights of parents to access their child's educational record. Requests can be made in writing to the Pre-School Manager.
- In addition, Subject Access Requests - we observe the rights of Data Subjects under UK GDPR to our handling of their Personal Data. These include rights:
 - to be informed;
 - of access;
 - to rectification;
 - to erase;
 - to restrict processing;
 - to data portability;
 - to object;
 - in relation to automated decision-making and profiling.
- The parent is the 'subject' of the file in the case where a child is too young to give informed consent and has a right to see information that our setting has compiled on the child.
- Where information is requested that mentions a third party, the third party will be contacted in writing seeking their consent for disclosure of that material. Third parties include other family members, staff, workers from another agency. The data/information will be redacted to reflect the consents/refusals received from third parties.



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- An appointment will be made with the parent for the viewing of the data/information. The parent may take a copy of the prepared file away. If postal systems must be used, then registered or recorded mail will be used.
- Third Party Requests – these include requests for information made by individuals or organisations not the subject of the data/information, such as the Local Authority, the police, health care professionals or another nursery/pre-school/school.
- The Manager and staff must not allow third parties to persuade them into disclosing Personal Data without proper authorisation.
- Staff may only share Personal Data held by the Pre-School if sharing the Personal Data complies with the privacy notice provided to the Data Subject and, if required, the Data Subjects consent has been obtained.
- We will seek parents' consent to share data/information in most cases.
- Consent to share needs only be sought from one parent. Where parents are separated, this would normally be the parent with whom the child resides. Where there is a dispute, we will consider this carefully.
- Where the child is looked after, we may need to consult the Local Authority, as 'corporate parent' before information is shared.
- Staff are reminded that consent must be freely given and can be withdrawn at any time.
- In certain circumstances, where a child is at risk, information may be passed to the relevant authorities without parental consent. We are obliged to share confidential information without authorisation from the person who provided it, or to whom it relates, if it is in the public interest. That is when:
 - It is to prevent a crime from being committed or to intervene where one may have been, or to prevent harm to a child or adult; or
 - Not sharing it could be worse than the outcome of having shared it.
- Medical information held on file may be made available to the General Practitioner or Hospital Doctor in the case of an emergency.
- Information shared by other agencies with us is regarded as third-party information. This is also kept in confidence and not shared without consent from that agency.

Data retention and disposal

- We will hold information about individuals only for as long as the law says and no longer than necessary. After this, we will dispose of it securely and have in place secure methods for safely disposing of all electronic and paper records.
- Please see **Appendix 2** for the retention periods for records kept by the Pre-School.
- When information/data is authorised for disposal, it is done appropriately using secure lockable shredding consoles. An identity destruction collection company removed the internal sack within



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the console which is sealed and transported to a shredding facility. Once the disposal process is complete, the setting is issued a certificate of destruction.

Personal Data or confidentiality breach

- The Pre-School Manager, Deputy and/or the Administration Manager undertake investigations when there is a breach of Personal Data or confidentiality and are responsible for reporting Personal Data breaches to the Information Commissioner's Office (ICO).
- Ladybird Forest Pre-School is registered with the ICO. The certificate of registration is displayed in the Pre-School office.
- A Personal Data breach, confidentiality breach or breach of this policy may lead to disciplinary action being taken against the member of staff involved.

Training and audit

- Staff induction includes an awareness of the importance of confidentiality in their role.
- Placement students on recognised qualifications and training, when they are observing in the setting, are advised of our confidentiality policy, and required to respect it.
- A confidentiality agreement should be signed and dated by each individual staff member, volunteer and placement student.

Legal framework:

- Human Rights Act 1998
- Data Protection Act 2018
- UK General Data Protection Regulation
- Privacy and Electronic Communications Regulations 2003

Further guidance:

- Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (HM Government 2015)
- What to do if you're worried a child is being abused: Advice for practitioners (HM Government 2015)
- Working together to safeguard children: A guide to inter-agency working to safeguard and promote the welfare of children (HM Government 2015)
- ICO Guide to the General Data Protection Regulation (GDPR)

Relevant Ladybird policies:

- 1.2 Safeguarding Children and Child Protection
- 1.4 Looked After Children



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- 1.8 Online Safety (incl. CCTV, Cameras, Mobile Phones and Smart Devices)
- 8.1 Health and Safety
- 102 Working in Partnership
- 10.7 Complaints

Appendices:

- 1. Privacy Notice
- 2. Retention periods for records

Key contact details:

Organisation	Contact details
Information Commissioner's Office	Helpline: 0303 123 1113 Registration reference: ZA032120

This policy was reviewed by	Amanda Sanders – Pre-School Manager Rebecca McGough – Chair
Date of review	26 th October 2022
Date for next review	26 th October 2023
Chair's signature	



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Appendix 1

Privacy notice

Ladybird Forest Pre-School's Privacy Notice

Ladybird Forest Pre-School, Queens Road, Ampthill, Bedfordshire, MK45 2TD

Introduction

Personal data is protected in accordance with data protection laws and used in line with your expectations. This privacy notice explains what personal data we collect, why we collect it, how we use it, the control you have over your personal data and the procedures we have in place to protect it.

When we refer to "we", "us" or "our", we mean Ladybird Forest Pre-School.

What personal data we collect

We collect personal data about you and your child to provide care and learning tailored to meet your child's individual needs. Personal details that we obtain from you includes your child's: name, date of birth, address, and health, development and any special educational needs information. We will also ask for information about who has parental responsibility for your child and any court orders pertaining to your child.

Personal data that we collect about you includes: your name, home and work address, phone numbers, email address, emergency contact details, and family details.

We will only with your consent collect your national Insurance number or unique taxpayer reference (UTR) where necessary if you are self-employed and where you apply for up to 30 hours free childcare. We also collect information regarding benefits and family credits. Please note that if this information is not provided, then we cannot claim funding for your child.

We also process financial information when you pay your childcare fees by chip and pin or direct debit. We may collect other data from you when you voluntarily contact us.

Where applicable we will obtain details of your child's social worker, child protection plans from social care, and health care plans from health professionals and other health agencies.

We may collect this information in a variety of ways. For example, data will be collected from you directly in the registration form; from identity documents; from correspondence with you; or from health and other professionals.

Why we collect personal data and the legal basis for handling your data

We use personal data about you and your child in order to provide childcare services and to fulfil the contractual arrangement you have entered into. This includes using your data in the following ways:

- to support your child's wellbeing and development



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- to effectively manage any special education, health or medical needs of your child whilst at the setting
- to carry out regular assessment of your child's progress and to identify any areas of concern
- to maintain relevant contact about your child's wellbeing and development
- to contact you in the case of an emergency
- to process your claim for free childcare, if applicable
- to enable us to respond to any questions you ask
- to keep you updated about information which forms part of your contract with us
- to notify you of service changes or issues
- to send you our e-newsletter, if you have subscribed to it

With your consent, we would also like to:

- collect your child's ethnicity and religion data for monitoring purposes
- record your child's activities for their individual learning journal (this will often include photographs and videos of children during play)
- sign you up for our free parent e-newsletter which provides resources and useful information for parents
- transfer your child's records to the receiving school when s/he transfers

If we wish to use any images of your child for training, publicity or marketing purposes we will seek your written consent for each image we wish to use. You are able to withdraw your consent at any time, for images being taken of your child and/or for the transfer of records to the receiving school, by confirming so in writing to the setting. You can also unsubscribe from receiving our parent e-newsletter by notifying the setting.

We have a legal obligation to process safeguarding related data about your child should we have concerns about her/his welfare.

Who we share your data with

As a registered childcare provider in order to deliver childcare services it is necessary for us to share data about you and/or your child with the following categories of recipients:

- Ofsted, when there has been a complaint about the childcare service or during an inspection
- banking services in order to process chip and pin and/or direct debit payments
- the local authority, if you claim up to 30 hours free child care



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- the governments eligibility checker as above, if applicable
- our insurance underwriter, where applicable

We will also share your data:

- if we are legally required to do so, for example, by a law enforcement agency, court
- to enforce or apply the terms and conditions of your contract with us
- to protect your child and other children; for example, by sharing information with medical services, social services or the police
- if it is necessary to protect our rights, property or safety or to protect the rights, property or safety of others
- with the school that your child will be attending, when s/he transfers, if applicable.

We will never share your data with any organisation to use for their own purposes.

How do we protect your data?

We take the security of your personal data seriously. We have internal policies and strict controls in place to try to ensure that your data is not lost, accidentally destroyed, misused or disclosed and to prevent unauthorised access.

Where we engage third parties to process personal data on our behalf, they are under a duty of confidentiality and are obliged to implement appropriate technical and organisational measures to ensure the security of data.

Where do we store your data?

All data you provide to us is stored on secure computers or servers located within the UK or European Economic Area. We may also store paper records in locked filing cabinets.

Our third party data processors will also store your data on secure servers which may be situated inside or outside the European Economic Area. They may also store data in paper files.

How long do we retain your data?

We retain your data in line with our retention policy a summary is below:

- You and your child's data, including registers are retained 3 years after your child no longer uses the setting, or until our next Ofsted inspection after your child leaves our setting.
- Medication records and accident records are kept for longer according to legal requirements.
- Learning journeys are maintained by the setting and available at your request when your child leaves. Records are kept and archived in line with our data retention policy.



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- In some cases (child protection or other support service referrals), we may need to keep your data longer, only if it is necessary in order to comply with legal requirements. We will only keep your data for as long as is necessary to fulfil the purposes it was collected for and in line with data protection laws.

Your rights with respect to your data

As a data subject, you have a number of rights. You can:

- request to access, amend or correct the personal data we hold about you and/or your child
- request that we delete or stop processing your and/or your child's personal data, for example where the data is no longer necessary for the purposes of processing or where you wish to withdraw consent
- request that we transfer your and your child's personal data to another person

If you wish to exercise any of these rights at any time please contact the Pre-School Manager or Administration Manager at the setting by email, telephone or when you attend the setting.

How to ask questions about this notice

If you have any questions, comments or concerns about any aspect of this notice or how we handle your data please contact the Pre-School Manager at the setting.

Complaints

If the Pre-School Manager is not able to address your concern, please contact the Chair of our Board of Directors.

If you are concerned about the way your data is handled and remain dissatisfied after raising your concern, you have the right to complain to the Information Commissioner Office (ICO).

Changes to this notice

We keep this notice under regular review. Any changes to this notice will be shared with you so that you may be aware of how we use your data at all times.

Key contact details:

Pre-School Manager	enquiries@ladybirdpre-school.org.uk
Administration Manager	admin@ladybirdpre-school.org.uk
Information Commissioner Office (ICO)	https://ico.org.uk Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Appendix 2

Retention Periods for Records

Record	Period of Retention
Children's Records	Including Registers / Medication Records should be retained for a reasonable amount of time: 3 years
Children's Incident or Concern Records	Recommendations (Limited Act 1980) until the child reaches the age of 21 or 24 for child protection records.
Children's Accident Records	Until the child reaches 25 years of age, due to the normal Limitation Rules (which mean that an individual can claim for negligently caused personal injury up to three years after, or deliberately caused personal injury up to six years after the event). Records of any reportable death, injury, disease or dangerous occurrence: three years after the date the record was made.
Personnel Records	
Personnel Files and Training Records (including Disciplinary and Working Time Sheets)	Six years after employment ceases.
Application Forms and Interview Notes (for unsuccessful candidates)	Six months to one year
Redundancy Detail	Six years from date of redundancy.
Disclosure and Barring Service Records	Ensure that all Disclosure and Barring Service (DBS, formerly Criminal Records Bureau) records (recruitment and vetting checks) are kept in a safe central place and that no unnecessary certification information is kept longer than six months
Wages/Salary Records (including overtime, bonus and expenses)	Six years
Income Tax/National Insurance Records	Three years
Health and Safety Records	
Staff Accident Records (for organisations with 10 or more employees)	Three years after the date the record was made. There are separate rules for reporting accidents involving hazardous substances.
Accidents/Medical Records as specified by the Control of	40 years from the date of the last entry



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Substances hazardous to Health Regulations (COSHH)	
Assessment under the Health & Safety Regulations and Records of Consultations with Safety Representatives and Committees	Permanently
Other Records	
Accounting Records	Six years for Public Limited Companies/Charities
Administration Records	
Complaints Record Book	Six years for the date of the last recorded complaint
Insurance Certificates	40 years from the date insurance commences or is renewed
Minutes/Minute Books	Ten years
Visitors Book	Minimum between OFSTED inspections
Ofsted Reports	Minimum between OFSTED inspections
Statutory Maternity Pay (SMP) and Statutory Sick Pay (SSP) Records	Three years after the end of the tax year which they relate to
Risk Assessments	Minimum of three years