

# Record Keeping

## 5.3 Data Protection Policy

### Statement for St Joseph's Out of School Club

St Joseph's Out of School Club (OOSC) collects data on the users of the setting - both parents/guardians and children, employees of the setting and service providers to the setting. These are collected for the management of and communication within the OOSC. This policy statement is supported by further policies: Children's Records, Provider Records, Retention Periods for Records and the Out of School Club's Data Privacy Notice.

St Joseph's Out of School Club are a data Controller for your and your child's personal data under the applicable Data Protection Laws, including the General Data Protection Regulation (GDPR) EU 2018.

St Joseph's Out of School Club is not currently registered with the Information Commissioners Office (ICO).

### Aim

The aim of this policy is to ensure that all parents and carers are aware of how we keep their information and the circumstances in which we would share their information. A copy of our Data Privacy Notice is available via the Kids Club HQ system and is also available on the OOSC page within St Joseph's Catholic Primary School's website<sup>1</sup>.

We ensure that the data we hold is accurate, as up to date as possible and not excessive. We only collect data that we are required to in line with the Childcare Acts 2006 and 2016, and set out in the Early Years Foundation Stage (EYFS) framework, which is mandatory for all early years providers in England.

The principles of the GDPR which supersede the Data Protection Act 1998, shall be applied to all data processed:

- processed fairly, lawfully and in a transparent manner in relation to individuals;
- obtained only for lawful purposes, and is not further used in any manner incompatible with those original purposes;
- accurate and, where necessary, kept up to date;
- adequate, relevant and not excessive in relation to the purposes for which it is processed;
- not kept longer than is necessary for those purposes<sup>2</sup>;
- protected by appropriate technical and organizational measures against unauthorised or unlawful processing and against accidental loss, destruction or damage; and
- not transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection of the personal information.

### Procedures

St Joseph's Out of School Club will collect only the personal information we need to perform our functions. We will use the information to provide appropriate care for the children attending the

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<sup>1</sup> [www.st-josephs-nympsfield.com](http://www.st-josephs-nympsfield.com)

<sup>2</sup> See 5.6 Retention Periods for Records

OOSC, to communicate with parents/guardian, to employ appropriate members of staff, ensure satisfactory running of the services we provide. We collect the following data:

*Child:* We will collect each child's details including name, address, date of birth, gender and first language. We also collect sensitive data including religion, health and personal care issues.

Each early years child<sup>3</sup> gets allocated a Key Person. This information is emailed to the parent at point of registration.

*Parents/carers:* For the parents/carers of the child we collect details including name, address, relationship with the child, telephone numbers and email addresses. This information is held on the Kids Club HQ system – the online system used to make bookings with the OOSC<sup>4</sup>.

*Staff:* For staff we collect details including name, address, date of birth, NI numbers, education and work experience, qualifications and references, telephone numbers and email addresses.

All staff personnel files are kept in a secure location and are only accessible by the Committee Chair and the Play Leader. All staff have a copy of our Staff Privacy Notice. It is included in their induction pack.

Issues to do with the employment of staff, whether paid or unpaid, remain confidential to the people directly involved in making personnel decisions.

*Service providers:* For service providers we collect details including name, address, telephone numbers, email addresses, website URLs, service details including stock/pricing/terms of business. Copies of their Privacy Notice is kept for reference.

## **Information sharing**

### *Children and/or their families*

There are times when we are required to share information about a child or their family. These are when:

- there are concerns a child may be suffering significant harm;
- the 'reasonable cause to believe' a child is or may be suffering significant harm is not clear; and/or
- there are concerns about 'serious harm to adults' (such as domestic violence or other matters concerning the welfare of parents).

In these circumstances, we will explain to families about our duty to share information for the above reasons.

Where we have concerns as above, we would normally gain consent from families to share. This does not have to be done in writing, but we will make a record that we have gained the verbal consent as a result of discussing a concern that we need to refer to a social care agency.

We do not seek consent from parents/carers to share information where we believe that a child, or sometimes a vulnerable adult, may be endangered by seeking to gain consent. For example, where

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<sup>3</sup> Either a child who is in the last year of attendance at St Joseph's Pre-school or is in the Reception class at St Joseph's Catholic Primary school

<sup>4</sup> Not bespoke to the OOSC

we believe that a parent may try to cover up abuse, or threaten a child. Where evidence to support our concerns is not clear we may seek advice from Gloucestershire County Council

We only share relevant information that is accurate, factual, non-judgemental and up to date. The intention to share data relating to individuals to an organization outside of the setting shall be clearly defined within notifications (verbal and/or written) and details of the basis for the sharing given. Data will be shared with external parties in circumstances where it is a legal requirement to provide such information.

The decision to share information will always be made with the agreement and consent of two OOSC Committee Members.

Any proposed change to the processing of individual's data shall first be notified to them.

### *Employees*

Data protection laws allow organisations to share personal information in an urgent or emergency situation, including to help prevent loss of life or serious physical, emotional or mental harm.

The ICO guidance<sup>5</sup> defines a mental health emergency as a situation in which the employer believes that someone is at risk or serious harm to themselves, or others, because of their mental health. This can include potential loss of life.

The ICO confirms that the employer will not get in trouble for sharing necessary and proportionate information with relevant and appropriate emergency services or health professionals that can help mitigate the risk of serious harm to the employee or to others. In addition, they advise that the employer could also share necessary and proportionate information with an employee's next of kin or emergency contact.

St Joseph's Nympsfield Out of School Club will ensure that all staff keep the details of their next of kin and emergency/mental health emergency contacts that we have on file up to date through regular review.

Further information can be found in policy 2.6 Staff Wellbeing.

*Consent to gather and to use information:* Should the OOSC wish to gather data or use the data held on an individual, explicit consent will be sought in advance and fair notification of the proposed use shall be given. If at any time those whose data we hold wish to remove any consents previously given then they should contact the DPO to request this change of consent.

### **Data Access Requests (Subject Access Request (SAR))**

All individuals whose data is held by us, have a legal right to request access to such data or supplementary information held. The right of access allows individuals to be aware of and to verify the lawfulness of the processing.

### *Parents*

Parents can have access to all written information about their child (except where data protection laws stipulate it is against the best interests of the child to do so), if a written request from the

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<sup>5</sup> "Information sharing in mental health emergencies at work"

parent is received by the Committee Chair. St Joseph's Out of School Club will respond to the request within 30 days from the initial date of the request even if this was via telephone or in person. We will provide the information free of charge and in paper format. However, we reserve the right to charge a 'reasonable fee'<sup>6</sup> when a request is manifestly unfounded or excessive, particularly if it repetitive. Please see 5.4 'Data Subject Access Requests' which details how we deal with a request and your rights.

Parents do not have access to information about any other child than their own.

### *Employees*

Employees, past and present, can submit a SAR, with respect to their personnel file. A data request must be made in writing to the relevant line manager. St Joseph's Out of School Club will respond within 30 days from the initial date of the request even if this was via telephone or in person. The OOSC will review the request and may ask for further clarification if a "general request" to see a file which contains a large amount of information, for example if the employee has been with the setting quite a few years. In this respect the time limit is paused until clarification received.

Personal information can cover more than one person, for example a witness statement used for internal disciplinary or investigatory issues or a whistleblowing report (this list is not exhaustive). Therefore, responding to a SAR may involve providing information that is about both the requester and someone else. The DPA 2018 states that the setting does not have to comply with a SAR if doing so means disclosing information which identifies someone else, except where:

- they consent to the disclosure; or
- it is reasonable to comply with the request without that person's consent.

To determine the latter, we will consider all the relevant circumstances, including:

- the type of information that we would disclose;
- any duty of confidentiality we owe to the other person/people;
- any steps we took to try to get the other person's consent;
- whether the other person is capable of giving consent; and
- any stated refusal of consent by the other person.

and we will refer to the ICO website to ensure that we are following their guidance "[SARs: Q&A for employers](#)".

It should be noted that confidential references that we either provide to other organisations or that we receive at the start of an employee's employment are exempt from SAR requests – as per UK GDPR.

If the employee is unhappy with the SAR response received from St Joseph's Out Of School Club, the employee should raise their concern, in the first instance, with the OOSC. We will take the complaint seriously and work with the requester to try and resolve it. However, if no resolution is found, the employee then has the right to raise a concern with the ICO.

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<sup>6</sup> Based on administrative costs for providing the information

**Fair Processing/Data Privacy Notice**

St Joseph's Out of School Club's Data Privacy Notice has been written in accordance with the Information Commissioner's Office (ICO) guidance and, due to the age of the children attending the OOSC, has been written in a form understandable to parent/carers. All parents whose children attend the OOSC receive a copy of our Data Privacy Notice. It is also available on the OOSC's page of St Joseph's Catholic Primary School's website, via the Kids Club HQ system and is displayed on our notice board at the OOSC.

To read the Kids Club HQ system's Privacy Notice and how they handle your/your child's data, click this link [here](#).

A separate Data Privacy Notice has been written for staff and all staff have received a copy.

**Data Security**

Under the GDPR, the OOSC has responsibilities to protect the personal information that we and our staff collect and use. This includes a requirement to have appropriate security to prevent it being accidentally or deliberately compromised. As such, physical data is stored in a locked cupboard within the locked Leigh Building which is alarmed. All IT devices (eg. laptops, ipads etc) used at the OOSC or by the Chair, Treasurer and Secretary which store electronic data, are password protected and have up to date IT protection software installed. Data on these devices is backed up at least monthly is not more frequently. All IT devices are kept under lock and key.

Only authorised people can access, alter, disclose or destroy personal data – as directed by the Committee Chair. The Play Leader and Deputy Play Leader have delegated responsibility to delete a child's account from the Kids Club HQ system, when the child leaves St Joseph's Catholic Primary School. However, if monies are still owed, the account will remain until all outstanding monies have been received.

In order to assure the protection of all data being processed and inform decisions on processing activities, this policy will be reviewed annually, and before this time should any matters arise that need to be addressed.

Parents, carers and staff are required to report suspected data breaches<sup>7</sup> without delay to the OOSC's DPO. Please refer to 5.5 'Data Breach Procedure' for details on how we will deal with a reported breach.

**Photographs and videos**

Images of staff and children may be captured at appropriate times and as part of learning and development activities for use in the OOSC only.

Unless prior consent from parents/carers/staff has been given, the OOSC shall not utilise such images for publication or communication to external sources.

It is the OOSC's policy that external parties (including parents) may not capture images of staff or pupils during such activities without prior consent.

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<sup>7</sup> A data breach is an incident in which sensitive, protected or confidential data has potentially been viewed, stolen or used by an individual unauthorised to do so.

## Data disposal

St Joseph's Out of School Club recognises that the secure disposal of redundant data is an integral element to compliance with legal requirements and an area of increased risk.

All data held in paper format will be disposed of by shredding, using a cross-cut shredder, and in line with our 5.6 Retention Periods for Records. Photographs and videos downloaded to computers will be deleted within three months, and all photographs and videos will be deleted at the end of each OOSC year. Electronic data held on laptops, ipads (or similar) or on a cloud provider, will be reviewed annually and data will be deleted according to our records keeping policy.

Disposal of IT assets holding data shall be in compliance with ICO guidance:

[https://ico.org.uk/media/for-organisations/documents/1570/it\\_asset\\_disposal\\_for\\_organisations.pdf](https://ico.org.uk/media/for-organisations/documents/1570/it_asset_disposal_for_organisations.pdf) . We will ensure that we use an IT asset disposal company which holds the required qualifications when the time comes. The company(ies) used must be accredited with ADSIA with distinction, Blancco or ISO 27001 etc.

## Further guidance

- General Data Protection Regulation (May 2018)
- Human Rights Act (1998)
- Information Sharing: Advice for practitioners providing safeguarding services to children, young people, parents and carers (March 2015) – HM Government
- IT asset disposal for organisations.pdf (ICO)
- ICO website: [www.ico.org.uk](http://www.ico.org.uk)
- ICO Guidance: "Information sharing in mental health emergencies at work" (latest version)

## Associated policies and procedures

- 1.2: Safeguarding and child protection
- 1.10.1 Whistleblowing
- 2.6 Staff Wellbeing
- 5.4: Data Subject Access Requests
- 5.5: Data Breach Procedure
- 5.6: Retention Periods for Records

Version Number	Author	Purpose of change	Date
1.0	NP and HS	Updating policies	23.01.2023
2.0	KC and MK	Formatted and updated <ul style="list-style-type: none"><li>• Confirmation that the OOSC is not currently registered with the ICO;</li><li>• Re-write of "Employees" subsection under Data Subject Access requests</li><li>• Data Security section updated</li><li>• "Associated Policies and Procedures" updated</li></ul>	26.02.2024 Committee Meeting
3.0	KC	New section re sharing information in mental health emergencies at work re staff as per ICO guidance	22.04.2024 Committee Meeting