

General Welfare Requirement: Documentation

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.

Record keeping

5.5 Data Subject Access Requests

Statement of Intent

This policy has been written to take into account of the General Data Protection Regulation (GDPR) 2018 and the Data Protection Act (DPA) 2018, together with advice from the Information Commissioner's Office ([ICO](https://ico.org.uk)).

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. This is known as a Subject Access Request (SAR).

Under GDPR, St Joseph's Pre-school's lawful basis for processing personal data necessary to enable us provide early years services, includes:

- the necessity of processing data for the performance of a contract (ie. education services via Local Provider Agreement with Gloucestershire County Council);
- compliance with legal obligations (eg. safeguarding requirements as stated in the Early Years Foundation Stage statutory framework); and
- legitimate interests (ie. ensuring the safety of early years learners and staff).

There is a heightened duty of care place on early years providers to protect the data of the children who attend their setting. In response to this, St Joseph's Pre-school pays an annual subscription to the Information Commissioner's Office (ICO) to be listed on their Data Protection Register¹. The Pre-school's reference number in this respect is ZB019647.

The exception

The Freedom of Information Act 2000 (FOIA) enables individuals and organisations to access information from public authorities. Charities are not "public authorities" and so are not directly subject to FOIA's requirements. If a genuine FOIA request is received, rather than a SAR, the enquirer will be informed that St Joseph's Pre-school is not obliged to provide the information. If known, we will direct the enquirer to any publicly available sources or a public authority that may have access to it.

Aim

The aim of this policy is to ensure that all parents and carers are aware of how to make a data subject access request and how St Joseph's Pre-school will deal with it.

Procedure

Parents

- Parents can have access to all written information about their child (except where data protection laws stipulate it is against the best interest of the child to do so). Requests can be made verbally or in writing, including via Social Media².

¹ A public list maintained by the ICO. This official record shows which UK organisations (including charities) process personal data and that data protection is taken seriously.

² For advice on "how to write an effective request for information" please see the [ICO website](https://ico.org.uk) ([www.ico.org.uk](https://ico.org.uk))

- A third party³ can also make a request on behalf of another person. However, in this case it is the third party's responsibility to provide evidence of their authority.
- If we are unsure of the identity of the requester, we will ask for information (ie. ID – but not photo ID) to verify them. In this instance, the timescale for responding to a SAR does not begin until we receive the requested information.
- The request will be forwarded to setting's Data Protection Officer (DPO) (see Policy 5.4 'Data Protection' and/or St Joseph's Pre-school's Data Privacy Notice for details of who this is).
- The DPO will consider if the request can be refused. It can only be refused if it is 'manifestly unfounded or excessive'⁴ as advised by the ICO.
- St Joseph's Pre-school may request evidence of identity to ensure data is being disclosed to the correct individual.
- There is no fee for processing a data subject access request unless the request is 'manifestly unfounded or excessive'. Even if this is the case the fee will only cover administration costs. It is permissible for St Joseph's Pre-school to charge a fee for additional copies of the same information.
- We will respond without undue delay and within 30 days from the initial request. If requests are complex or numerous this can be extended by a further 2 months but this will be fully explained within the 1 month deadline.
- If the request is extremely broad we may seek clarification on the exact scope of the data required. In this case, we can pause the time-limit for responding until a clear explanation is received.
- A decision will be made on what systems and files should be searched for relevant personal data. We will keep a note of this as evidence of the steps taken in case a complaint is made by the individual to the ICO.
- St Joseph's Pre-school will consider if all the data should be disclosed. There are very limited exemptions where disclosing the data would 'adversely affect the rights and freedoms of others'. This is most likely to mean redacting the information to take out anything identifying a third party or if the data is related to a criminal offence.
- A copy of the data to be disclosed will be sent to the requestor. Where possible, and certainly if the request was made electronically, the data will be provided electronically in a commonly used electronic format. If it is a paper copy, it will be sent first class signed for, if via email a delivery receipt will be requested as evidence that it was sent.
- If an individual asks, we can provide a verbal response to their SAR, once we have confirmed their identity. In this case we will keep a record of:
 - the date they made the request;
 - the date we responded;
 - details of who provided the information; and
 - what information we provided.
- A covering letter/email will also be sent containing the following information:
 - the categories of their personal data being processed by us (eg. fees);

³ For example: a relative, friend or solicitor

⁴ For more information on 'manifestly unfounded or excessive' requests, please see the ICO website (www.ico.org.uk)

- the purposes for which the processing happens (eg. fee payment);
- to whom the data may be disclosed (eg. Gloucestershire County Council (GCC), HMRC);
- details of the source of the data (eg. registration form, Childcare Choices portal);
- how long the data is retained by us⁵;
- the right to have inaccurate data corrected;
- the right to make a complaint to the ICO; and
- if automated decision making applies, meaningful information about how these decisions are made will be supplied (*not applicable to St Joseph's Pre-school*).
- If we are refusing to comply with the request, we will send the requestor a letter explaining our decision and outlining their right to complain to the ICO or another supervisory authority, and that they may apply for a court order requiring us to comply or to seek compensation⁶ to enforce their rights through the courts.
- Where possible, we will consider whether it is possible to comply to a request without disclosing information that identifies another individual. If this is not possible, we do not have to comply with the request, except where the other individual consents to the disclosure or it is reasonable to comply with the request without the individual's consent. In this case we will:
 - respond to the requester on whether or not we decide to disclose information about a third party;
 - we will ensure we justify our decision to disclose or withhold information about a third party;
 - we will keep a record of what we decide and why.
 - Information pertaining to safeguarding issues will not be released if this goes against No 1.2 Safeguarding and Child protection policy.
- A record will be kept of our efforts to comply with the request, the date that we provided the information and any correspondence in case of future investigations by the ICO.

Employees

Responses to any SAR requests from employees, past and present, will be dealt with as above. Please also see information specifically re employees contained within the Pre-school's No 5.4 Data Protection policy document.

A copy of our Data Subject Access Request Checklist is attached to this policy.

Further guidance

- General Data Protection Regulation 2018 (GDPR)
- Information Commissioner's Office website (www.ico.org.uk)

Associated Policies and Procedures

- 1.2 Safeguarding Children and Child Protection
- 5.4 Data Protection
- 5.6 Data Breaches

⁵ See Policy 5.7: Retention Periods for Records

⁶ It is a matter for the court to decide, in each particular case, on what action to take.

Version Number	Author	Purpose of change	Date
1.0	K Coupe	Comply with GDPR	19 September 2018
2.0	K Coupe	Review of policy. Inclusion of hyperlinks to specific ICO webpages	29 April 2021 Committee via email (quorate)
3.0	K Coupe	Reviewed and updated: • further clarification on how requests can be made; • Inclusion of “Associate Policies & Procedures” section as per Safeguarding Audit 2022 section 175/157	14 February 2023 Committee Member (L Finn)
4.0	K Coupe	Document amended to take account of revised ICO information should an employee (past/present) make a Subject Access Request – reference to No 5.4 Data Protection	13 June 2023 Chair (A Hitchings)
5.0	K Coupe	Document updated to confirm that currently the setting, as a charity, is not obliged to respond to Freedom of Information requests	06 November 2023 Committee Member (S Webb)
6.0	K Coupe	Reviewed and updated to include • confirmation of the Pre-school’s lawful basis for processing personal data; and • the Pre-school’s reference number for the ICO’s Data Protection Register • confirming that when we verify a requestor, we will not ask for photo ID.	18 June 2025 Cttee Mbr (L Finn-Powers)

Data Subject Access Request Checklist

Action	Notes	Completed
Data Subject Access Request received and passed to the Data Protection Lead/Officer	If received verbally, the staff member receiving the request should ask that it is confirmed either by letter or via email.	
Are there grounds for refusing the request?	<ul style="list-style-type: none"> ○ If Yes, the request should be denied within the 30 day deadline stating that the requestor may make a complaint to the ICO; ○ If No, continue with the checklist. 	
Is further evidence of identity required?	Request if necessary – time limit is paused	
Is the request 'manifestly unfounded or excessive', or a request for duplicate information?	If Yes, a fee may be applicable but should not be more than the administrative cost.	
What date should the request be completed by?	<p>This is 30 days from the initial date of the request even if this was via telephone or in person. If this will not be possible because of the amount of data involved, this can be extended by a further 2 months but the delay must be communicated within the original month.</p> <p>For term time settings, like St Joseph's Pre-school, during the school holidays an 'out of office' message will be on the Pre-school's email addresses advising that 'This email address will not be accessed during holiday periods (dates). If you are making a Data Subject Access Request, then please email at the beginning of the next term.'</p>	
Is the request extremely broad?	Seek clarification to determine the scope of the personal data required. The time-limit is paused until a clear explanation is received.	
What systems/data sources should be searched?	Keep a note of decisions made in case of future complaints/investigations.	
Does the data contain any references to third parties or sensitive data which should not be disclosed?	Redact (blank out) anything identifying a third person. Do not disclose anything relating to a criminal investigation.	
Is the data and covering letter ready to be sent?	Data should be supplied electronically where possible, in a commonly used format. Ensure that it is sent first class signed for or if via email with a delivery receipt requested. The covering letter should contain the information set out in this Policy.	
Has a record been kept of the process followed, the decisions made during the process and the data that the requested data was provided?	See above policy for details of what to record.	