

Policy adopted	May 2018
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Approved by	CEO / Business Manager

## DATA PROTECTION POLICY (in line with GDPR 2018)

This policy applies to all services provided by Growing Places (Community Childcare Centres).

### Definitions

In this policy, the following words and phrases have the following meanings:

**“Consent”** means any freely given, specific, informed and unambiguous indication of the data subject’s wishes by which they, by a statement or by a clear affirmative action, signify their agreement to the processing of personal data relating to them.

**“Criminal records personal data”** means personal data relating to criminal convictions and offences and personal data relating to criminal allegations and proceedings.

**“Data protection legislation”** means the EU General Data Protection Regulation (GDPR), the Data Protection Act 2018 and any other applicable primary or secondary legislation as may be in force in the UK from time to time.

**“Data subject”** means a living identified or identifiable individual about whom the Company holds personal data (i.e. children, parents, guardians, emergency contacts, shared information relating to other family members, staff, volunteers, Trustees).

**“Member of staff”** is any director, employee, worker, agency worker, apprentice, volunteer, contractor and consultant employed or engaged by the Company.

**“Personal data”** is any information relating to a data subject who can be identified (directly or indirectly) – it may include name, address, email address, telephone numbers, date of birth, bank account details (for setting up regular direct debit or payment information) and detail on family relationships.

**“Processing”** is any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collecting, recording, organising, structuring, storing, adapting, altering, retrieving, using, disclosing, disseminating, restricting, erasing or destroying. It also includes transmitting or transferring personal data to third parties.

**“Special categories of personal data”** means personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership, genetic data, biometric data, data concerning the physical or mental health of a data subject or data concerning a data subject’s sex life or sexual orientation.

### Purpose of this policy

Nature of work – Childcare provider: Nursery / Pre-school / Breakfast, After School, Holiday Clubs

The purpose of this policy is to give you a clear explanation about how Growing Places’ collects, stores and uses the personal information you provide to us. We ensure that we use your information in accordance with all applicable laws concerning the protection of your personal information, including the General Data Protection Regulations (GDPR). The Company will process personal data in accordance with this policy, the data protection legislation and the latest privacy notice.

GDPR is a new EU regulation covering data protection. It comes into force on 25<sup>th</sup> May 2018 and replaces the Data Protection Act (1998) and the Electronic Communications Regulations (2003). All UK companies need to be compliant with this legislation, including organisations that host data on behalf of UK companies.

This policy sets out how the Company processes the personal data of data subjects, including the personal data of job applicants and the personal data of our current and former Trustees/Directors, employees, workers, apprentices, volunteers, contractors, consultants, customers, suppliers and other third parties.

It applies to all personal data that we process, regardless of the media on which those personal data are stored, e.g. electronically, on paper or on other materials. The Company is committed to being clear and transparent about how we collect and use personal data and to complying with our data protection obligations. Protecting the confidentiality,

\* [Working together to safeguard children \(2015\)](#) - A guide to inter-agency working to safeguard and promote the welfare of children - The Department for Education published an updated version of the key statutory guidance for anyone working with children in England in March 2015

security and integrity of the personal data that we process is also of paramount importance to our business operations. This policy is non-contractual and does not form part of any employment contract, casual worker agreement, consultancy agreement or any other contract for services.

Under the GDPR, there are six data protection principles that the Company must comply with. These provide that the personal information we hold about you must be:

1. Processed lawfully, fairly and in a transparent manner.
2. Collected only for legitimate purposes that have been clearly explained to you and not further processed in a way that is incompatible with those purposes.
3. Adequate, relevant and limited to what is necessary in relation to those purposes.
4. Accurate and, where necessary, kept up to date.
5. Kept in a form which permits your identification for no longer than is necessary for those purposes.
6. Processed in a way that ensures appropriate security of the data.

The Company is responsible for, and must be able to demonstrate compliance with, these principles. This is called accountability.

The Company takes compliance very seriously. A significant or deliberate breach of this policy, such as accessing a data subject's personal data without authority or unlawfully obtaining or disclosing a data subject's personal data (or procuring their disclosure to a third party) without the Company's consent, constitutes a gross misconduct offence and could lead to an employee's dismissal. If a non-employee undertakes such a breach, the company will seek legal advice on the matter(s).

The following is a broad description of the way this organisation/data controller processes the personal information of any data subject who has shared their data with Growing Places (Community Childcare Centres).

### **Company information & staff training on Data Protection**

As a medium-sized employer, Growing Places (Community Childcare Centres), currently manages 12 childcare settings. COMMUNITY CHILDCARE CENTRES (Growing Places) is an incorporated, not-for-profit, company registered by guarantee, and is also registered as a charity. The company was founded on 26 January 2001 and registered as a charity on 7 June 2001. Company details and accounts information is submitted on an annual basis to both Companies House (registration number 4148695) and the Charities Commission (registration number 1086957).

Growing Places (Community Childcare Centres) is registered under the Data Protection Act 1998 registration no Z8685195, and any data collected will be used and held in accordance with the requirements of the Data Protection Act 1998, and its successor, the General Data Protection Regulations (GDPR, May 2018).

Staff training - all staff at Growing Places asked to attend GDPR training in April/May 2018 to ensure that they were aware of the importance of this new legislation and their personal responsibilities in managing the safety and security of personal data. All staff in attendance were issued with a company training certificate as part of this training.

### **Types of personal information we collect**

Personal data/ information is any information about an individual from which that person can be directly or indirectly identified, including the children in our care. This may include: family details; GP contact details; financial details; education and employment details; goods or services provided (e.g. pre-school or out-of-school enquiry/booking details).

Additionally, with parent / guardian consent, we will safely and securely record evidence of child(ren) playing and learning in Growing Places' setting (i.e. photographs / video imagery) and information relating to child development/progress at Growing Places purely for the purposes of keeping families updated in the childcare they are receiving at Growing Places.

There are also “special categories” of personal information, and personal information on criminal convictions and offences, which requires a higher level of protection because it is of a more sensitive nature. The special categories of personal information comprise information about an individual’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, health, sex life or sexual orientation and genetic and biometric data.

Growing Places (Community Childcare Centres) collects, uses and processes a range of personal data for the purposes of:

1. using the information to comply with our legal\* obligations;
2. using the information for effective communication (e.g. contact details), for the effective operation of our childcare services;
3. it is fair to use the personal information, where there is no disadvantage to the person who it relates to.

We will not share any personal information to another party for the purposes of marketing.

The Company may also collect, use and process the following special categories of personal data (as applicable):

- physical or mental health details (for safeguarding purposes and for which the company needs to make reasonable adjustments)
- racial or ethnic origin, religious or philosophical beliefs (to respect family beliefs / culture – e.g. food and holidays)
- criminal convictions and offences (for safer recruitment purposes)

to support all who work for us and the children in our care (including Trustees/Directors).

### **How we collect personal information**

We obtain personal information when:

- Growing Places’ receive or send an email
- prospective families initially enquire about our childcare service(s), events or activities
- families register their child(ren) for a permanent session(s) with Growing Places
- potential employees / volunteers / Trustees apply to work with Growing Places
- staff work at Growing Places
- Trustee / Director works with Growing Places

The personal information we hold on any individual has been provided either by that individual and/or where data has been provided by a third-party for recruitment purposes (e.g. reference; Disclosure & Barring Service (DBS) company). Please note, for the purposes of recruitment, the Company will only seek to obtain personal information from third parties during the recruitment process once an offer of employment or engagement has been made and the candidate has been informed that we are doing so.

Personal data/information may be stored in different places in the Company’s IT management system(s) and in other IT systems, such as the e-mail.

### **How we use personal data - our reasons/purposes for processing information**

We need all the types of personal information listed under “How we collect personal information” primarily to enable us to take steps at your request to enter into a contract with you and to enable us to comply with our legal obligations. In some cases, we may also use your personal information where it is necessary to pursue our legitimate interests (or those of a third party), provided that your interests or your fundamental rights and freedoms do not override our interests. Our legitimate interests include: pursuing our business by employing employees, workers and contractors; managing the recruitment process; conducting due diligence on prospective staff and performing effective internal administration.

The purposes for which we collect, hold and/or process personal information is to enable Growing Places to:

- provide safe, effective childcare (ensuring the welfare and protection of that child)
- manage the effective operation of our childcare provision and communication with all service users, employees, Trustees/Directors and those external to the organisation\*

*\* Working together to safeguard children (2015) - A guide to inter-agency working to safeguard and promote the welfare of children - The Department for Education published an updated version of the key statutory guidance for anyone working with children in England in March 2015*

- safely recruit personnel - comply with statutory and/or regulatory requirements and obligations, e.g. checking right to work in the UK; comply with the duty to make reasonable adjustments and other disability discrimination obligations
- support and manage our staff
- ensure compliance with statutory rights
- ensure effective HR, personnel management and business administration
- enable us to establish, exercise or defend possible legal claims
- manage our legal / regulatory compliance obligations (e.g. child personal data needs to be kept till child is 21 years of age; financial accounts need to be retained for 7 years; Gift Aid claim forms must be retained for 7 years; pension detail needs to be kept for minimum of 6 years)

Please note that we may process personal information without consent, where this is required or permitted by law. We process information in line with regulatory requirements (e.g. Ofsted, Companies House and the Charities Commission regulations) and in line with legislation relating to the 'Working together to safeguard children (2015)' policy\* (e.g. Protection of Children Act 1989; Children's Act 2004; Rehabilitation of Offenders Act 1974; Education Act 2011; Counter-Terrorism and Security Act 2015).

We may also occasionally use special categories of personal information, and information about criminal convictions and offences, where it is needed for the establishment, exercise or defence of legal claims.

#### Consent – how we seek, obtain and record consent.

To ensure that we obtained personal data safely, and in line with the data protection compliance, many of our procedures require a signature of consent. (Note - parents/guardians will provide consent for any child in our care who is under 13 years of age).

In order to comply with the EYFS and Ofsted legislation / regulations, there is a large amount of data that we must keep hold of. These legal obligations override GDPR and therefore, we do not need to consent to collate certain data (e.g. child and parent details must be kept / recorded for 2 years; accident reports must be kept for 21 years and 3 months; staff records must be kept for 7 years). For existing parents, who joined before 25<sup>th</sup> May 2018, who have already given consent on enrolment form(s), we don't have to gain consent again.

We have reviewed our company communication, including policies & procedures, to ensure where consent is sought that it is: freely given, specific, informed, unambiguous, demonstrable (by a statement of clear affirmative action) e.g. tick boxes, signature, with separate consent sought as required.

#### Access to personal information

Personal information may be shared internally within the Company for the purposes of the recruitment exercise, including with company leadership members (i.e. CEO, Business Manager, Finance & HR department, leaders in settings, IT staff) if access to your personal information is necessary for the performance of their roles.

The Company will not share personal information with third parties unless for the purposes of recruitment or child safeguarding or legal advice. We may also need to share your personal information with a regulator (e.g. Ofsted) or to otherwise comply with the law. *Please note - we may share your personal information with third parties where it is necessary to steps at your request to enter into a contract with you, or to enter into a contract with you, where we need to comply with a legal obligation, or where it is necessary for our legitimate interests (or those of a third party).*

#### How the Company protects personal information

We work hard to protect all personal data from unauthorised access and/or disclosure. We adopt appropriate data collection, storage and processing practices and security measures to protect against unauthorized access, alteration, disclosure or destruction of your personal or transactional data stored on our website and systems. Personal data information is either managed on secure online systems OR kept in secure lockable offices, where paperwork has been completed.

\* *Working together to safeguard children (2015) - A guide to inter-agency working to safeguard and promote the welfare of children - The Department for Education published an updated version of the key statutory guidance for anyone working with children in England in March 2015*

To protect the security of personal information, we limit access to personal information to those employees, workers and other third parties who have a business need to know to perform their job duties and responsibilities. Additionally, we have put in place staff training and internal procedures / controls to try and prevent personal information from being accidentally lost or destroyed, altered, disclosed or used or accessed in an unauthorised way.

Where your personal information is shared with third parties, we require all third parties to take appropriate technical and organisational security measures to protect personal information and to treat it subject to a duty of confidentiality and in accordance with data protection law.

The Company also has in place procedures to deal with a suspected data security breach and we will notify the Information Commissioner's Office (or any other applicable supervisory authority or regulator) of a suspected breach where we are legally required to do so.

### **Who the information may be shared with**

We work with data compliant registered companies who host and/or process personal data on Growing Places' behalf. For further information about these third-party data processing organisations and their data compliance procedures, please see the following:

#### **DATA PROCESSING ORGANISATIONS:**

- a) For childcare data purposes - TAPESTRY online learning journal: <https://tapestry.info/draft-contract/>
- b) For financial data purposes – SAGE <http://www.sage.com/company/gdpr/> / MEMSET <https://www.memset.com/about-us/privacy-policy/>
- c) For HR and childcare admin data purposes – CONNECT (we have a copy of their privacy notice available on Sharepoint, for distribution as appropriate)
- d) For staff payroll and company auditing / accounting purposes – MMO ACCOUNTANTS (we have a copy of their privacy notice available on Sharepoint, for distribution as appropriate)
- e) For staff pension / auto-enrolment – THE PEOPLE'S PENSION <https://thepeoplespension.co.uk/privacy/>
- f) For staff, volunteers & Trustees DBS checks – GBG online disclosures (we have a copy of their privacy notice available on Sharepoint, for distribution as appropriate)
- g) For company operation (e.g. staff email and work documentation) purposes - MICROSOFT OFFICE 365 accounts <https://www.microsoft.com/en-us/TrustCenter/Privacy/gdpr/default.aspx>
- h) For card payment / banking purposes – WORLDPAY MERCHANT BANKING <https://www.worldpay.com/uk/privacy-policy> / HSBC ACCOUNTS <http://www.hsbc.co.uk/1/2/privacy-notice> AND <https://www.business.hsbc.uk/en-gb/gb/generic/legal-page-site-terms-and-privacy-statement> / BANK OF SCOTLAND ACCOUNT <https://www.bankofscotland.co.uk/securityandprivacy/privacy/>

#### **DATA CONTROL AND PROCESSING ORGANISATIONS:**

- a) For childcare funding purposes and/or child safeguarding protocol – HAMPSHIRE COUNTY COUNCIL <https://www.hants.gov.uk/aboutthecouncil/strategiesplansandpolicies/dataprotection>
- b) For debt recovery collection purposes – Redwood Collections Ltd we have a copy of their privacy notice available on Sharepoint, for distribution as appropriate)
- c) For staff apprenticeship training – HAVANT & SOUTH DOWNS COLLEGE / PARENTA (we have a copy of their privacy notice available on Sharepoint, for distribution as appropriate)

Additionally, we occasionally need to share the personal information we process with other organisations, as compliance with our regulatory and legal\* obligations. What follows is a description of the types of organisations we may need to share some of the personal information we process with, for one or more reasons. Where necessary or required we share information with:

- family, associates and representatives of the person whose personal data we are processing
- healthcare, social and welfare advisers or practitioners
- business associates
- financial organisations and professional advisers
- credit reference agencies, debt collection and tracing agencies
- education, educators and examining bodies

\* *Working together to safeguard children (2015) - A guide to inter-agency working to safeguard and promote the welfare of children - The Department for Education published an updated version of the key statutory guidance for anyone working with children in England in March 2015*

- current, past or prospective employers
- employment and recruitment agencies
- schools
- local and central government
- persons making an enquiry or complaint
- suppliers
- service providers
- regulatory bodies (Ofsted, Companies House and the Charities Commission regulations)
- legal advice / insurance bodies

### **How long does the Company keep personal information?**

We keep your personal information for as long as is necessary to fulfil the purposes for which it was collected and processed and to operate the service in accordance with legal requirements, tax and accounting rules. Where your information is no longer required, we will ensure it is disposed of in a secure manner.

 **For childcare bookings** – the company is legally obliged to keep child records up to they reach 21 years of age for the purposes of safeguarding (this includes, and is not restricted to, enrolment form detail, medical/health information, Special Educational Needs (SEN) detail, records relating to child safeguarding / child protection, accident and incident records, all records relating to a “looked after” child – i.e. child is fostered/adopted). Additionally, enrolment form details will contain parent / guardian contact details which may also be used for debt collection purposes.

 **For staff recruitment purposes** – the Company will generally hold your personal information for six months after the end of the relevant recruitment exercise but this is subject to: (a) any minimum statutory or other legal, tax, health and safety, reporting or accounting requirements for particular data or records, and (b) the retention of some types of personal information for up to [six years] to protect against legal risk,

 **For employee purposes** - personal information gathered during the recruitment process will be retained for the duration of employment and in accordance with the privacy notice for employees and workers. Personal information which is no longer to be retained will be securely and effectively destroyed or permanently erased from our IT systems and we will also require third parties to destroy or erase such personal information where applicable.

### **Data subject - your individual rights**

As a data subject, you have a number of statutory rights. Subject to certain conditions, and in certain circumstances, you have the right to:

- request access to your personal information - this is usually known as making a data subject access request and it enables you to receive a copy of the personal information we hold about you and to check that we are lawfully processing it
- request rectification of your personal information - this enables you to have any inaccurate or incomplete personal information we hold about you corrected
- request the erasure of your personal information - this enables you to ask us to delete or remove your personal information where there’s no compelling reason for its continued processing, e.g. it’s no longer necessary in relation to the purpose for which it was originally collected
- restrict the processing of your personal information - this enables you to ask us to suspend the processing of your personal information, e.g. if you contest its accuracy and so want us to verify its accuracy
- object to the processing of your personal information - this enables you to ask us to stop processing your personal information where we are relying on the legitimate interests of the business as our legal basis for processing and there is something relating to your particular situation which makes you decide to object to processing on this ground
- data portability - this gives you the right to request the transfer of your personal information to another party so that you can reuse it across different services for your own purposes.

If you wish to exercise any of these rights, please address requests to: FAO Data Protection Officer (Business Manager), Growing Places at Mill Hill, Mill Road, Waterlooville, Hants PO7 7DB OR email: [admin@growingplaces.org.uk](mailto:admin@growingplaces.org.uk) / call: Head Office on 02392 266004.

We may need to request specific information from you in order to verify your identity and check your right to access the personal information or to exercise any of your other rights. This is a security measure to ensure that your personal information is not disclosed to any person who has no right to receive it.

In the limited circumstances where you have provided your consent to the processing of your personal information for a specific purpose, you have the right to withdraw your consent for that specific processing at any time. This will not, however, affect the lawfulness of processing based on your consent before its withdrawal. If you wish to withdraw your consent, please contact our Data Protection Officer (as detailed above). Once we have received notification that you have withdrawn your consent, we will no longer process your personal information for the purpose you originally agreed to, unless we have another legal basis for processing.

Please also contact the company Data Protection Officer to seek further advice in the following circumstances:

- if you suspect there has been a personal data breach
- if you believe personal data are not being kept or deleted securely or are being accessed without the proper authorisation
- if you suspect there has been any other breach of this policy or any breach of the data protection principles

If you believe that the Company has not complied with your data protection rights, you have the right to make a complaint to the Information Commissioner's Office (ICO) at any time. The ICO is the UK supervisory authority for data protection issues. If you wish to lodge a complaint or seek advice from a supervisory authority please contact: The Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF Tel: +44 (0) 01625 545 745 Website: [www.ico.org.uk](http://www.ico.org.uk)

### **Transferring personal information outside the European Economic Area**

The Company may transfer your personal information to countries outside the European Economic Area (EEA). However, we would need to seek legal advice on this matter if there is not an adequacy decision by the European Commission in respect of that country. This means that the country to which we transfer your personal information is deemed not to provide an adequate level of protection for your personal information.

### **Changes to this policy**

The Company will review this policy at regular intervals and we reserve the right to update or amend it at any time and from time to time. Where appropriate, we may notify you of changes by e-mail.

It is intended that this policy is fully compliant with the data protection legislation. However, if any conflict arises between the data protection legislation and this policy, the Company will comply with the data protection legislation.

This policy may also be made available to the Information Commissioner's Office on request.