



## 6.1 Scallywags Nursery Data Protection Policy for Parents and Children.

<p><b>The Data Champion for Scallywags Day Nursery is: Mary Attwater and Sarah Butler – Nursery Owners and Managers</b></p>
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The Data Champion of the nursery, being the data controller in terms of GDPR (General Data Protection Regulation) 2018 and the DPA, has overall responsibility for ensuring that records are correctly processed. All staff within Scallywags Nursery are involved with such processing are aware of their duties and responsibilities in line with this policy.

**Scallywags Nursery is fully committed to compliance with the requirements of GDPR 2018 and DPA. The nursery will therefore follow procedures which aim to ensure that all employees, elected members, trainees/placement staff, helpers of the nursery who have access to any personal data held by or on behalf of the nursery are fully aware of and abide by their duties under GDPR 2018.**

### **Statement of Policy**

In order to operate efficiently Scallywags Nursery has to collect and use information about people/ children with whom it works. These may include members of the public, suppliers, other childcare agencies, current, past and prospective employees and current past and prospective parents and children.

In addition it may be required by law to collect and use information in order to comply with requirements of central government.

This personal information must be handled and dealt with properly, however it is collected, recorded and used, and whether it be on paper in computer records or recorded by any other means, and therefore are safeguards within the Act to ensure this.

Scallywags Nursery regards the lawful and correct treatment of personal information as very important to its successful operations and to maintaining confidence between the nursery and those with whom it carries out business and/or cares for. The nursery will ensure that it treats personal information lawfully and correctly.

To this end the nursery fully endorses and adheres to the principles of Data Protection as set out in GDPR 2018 and DPA.

**All Scallywags Nursery Managers and Assistant and Deputy Managers have specific responsibility for data protection in the nursery and maintaining that the policy is adhered to and investigation any queries.**

**The nursery will conform to:**

The terms of GDPR 2018 and DPA, and any subsequent relevant legislation, to ensure

- Personal information is treated in a manner which is fair, lawful and in a transparent way.
- Only obtain and use data for the reason it is initially obtained
- Will not collect any more data than is necessary
- Data is accurate and there are mechanisms in place to keep it up to date
- Data will not be kept any longer than is necessary
- All data will be protected
- Other agencies will be contacted if data has been asked not to be shared
- No automated decisions will be made about data

Ofsted advice and guidance which is supplied in the Early Years Foundation Stage Welfare Requirements framework will be used to guide and support Scallywags with the collection and retention of data.

Information and guidance displayed on the GDPR Website - [www.eugdpr.org](http://www.eugdpr.org). This Policy should be used in conjunction with the following nursery policies: E policy, Internet policy, social networking, risk assessments and safeguarding policies.

**Policy:**

**The Legal Basis for Processing Personal Data**

All personal data relating to staff, children and their families or other people of whom we have contact, whether held on computer or in paper files, are covered by GDPR and DPA.

Only relevant personal data may be collected and the person from whom it is collected should be informed of the data's intended use and any possible disclosures of the information that may be made. If consent has not been sought in advance to share the information with a certain 3<sup>rd</sup> party, consent will be asked for prior to information being shared and parents will sign a new consent form.

The main reason that Scallywags Nursery processes personal data is because it is necessary in order to comply with the nursery legal obligations and to enable it to perform tasks carried out in the public interest.

The nursery may also process personal data if at least one of the following applies:

- in order to protect the vital interests of an individual
- there is explicit consent
- to comply with the nursery's legal obligations in the field of employment and social security and social protection law
- for the establishment, exercise or defense of legal claims or whenever courts are acting in their judicial capacity
- for reasons of public interest in the area of public health
- for reasons of substantial public interest, based on law, which is proportionate in the circumstances and which has provides measures to safeguard the fundamental rights and the interests of the data subject

### **Data Storage – Risk assessments along with a data storage policy have been carried out to ensure data is secure**

- Personal data will be stored in a secure and safe manner across the nursery – in locked cabinets in the playrooms and nursery office.
- electronic data will be protected by a password and firewall systems operated by the nursery managers (please refer to E policy)
- Computer workstations are positioned in the nursery offices. Management/ staff using the systems will remain conscious of casual observers and systems will be locked / pass-worded down each time a machine is left.
- Manual data will be stored where it is not accessible to anyone who does not have a legitimate reason to view or process that data – in locked cupboards.
- Staff may carry data on nursery memory sticks or other nursery removable data carriers in order to access their files at the nursery. However staff have signed an agreement that includes a list of do`s and don`ts concerning use.
- Strict checks are applied to determine the length of time information is held (see retention policy)

### **Data Checking**

- The nursery will issue regular reminders to staff and parents to ensure that personal data held is up to date and accurate. In addition twice yearly it is good practice of the nursery to issue all parent/ carers with new contact detail forms to be completed.
- Any errors discovered will be rectified and, if the incorrect information has been disclosed to a third party; any recipients will be informed of the correct data.

### **The categories of pupil information that we collect, hold and share include:**

- personal information (such as name, address and contact details, carers details)
- characteristics (such as ethnicity, language, nationality, country of birth, religion and council funding eligibility)
- attendance information (such as sessions attended, number of absences and absence reasons, behavioural information, details of any exclusion information)
- Early years foundation stage curriculum data, assessment results, tracking and monitoring
- where pupils go after they leave us
- any special educational needs (SEN) or disabilities as well as relevant medical information
- any information regarding to safeguarding that involves your child

### **How we use information**

We collect and hold personal information relating to our pupils and those involved in their care, we may also receive information from previous nurseries or follow on schools, the local authority(s) and/ or the Department for Education (DfE).

We use this personal data to:

- support our pupils' learning
- support our pupils' welfare
- monitor and report on their progress
- provide appropriate pastoral care;
- assess the quality of our services;
- process any complaints;
- protecting vulnerable individuals;
- the prevention and detection of crime

### **Who we share data with**

Personal data will only be disclosed to organizations or individuals for whom consent has been given to receive the data, or organizations that have a legal right to receive the data without consent being given (safeguarding policy).

- When requests to disclose personal data are received by telephone it is the responsibility of the nursery to ensure the caller is entitled to receive the data and they are who they say they are. It is good practice to call them back, preferably by a switchboard, to ensure the possibility of fraud is minimized.
- If a personal request is made for personal data to be disclosed it is again the responsibility of the nursery to ensure the caller is entitled to receive the data and that they are who they say they are. If the person is not known personally by the nursery, proof of identity must be requested. It may be necessary for the caller to request data in writing.
- Requests for children's names for Birthday parties and Christmas card lists can be given by a member of permanent nursery staff. Note only children's first names should be given.
- Separate parental consent is sought for group photographs of children prior to them being displayed or distributed within nursery. Consent should clearly identify the purpose for the photograph and its use as well as who will receive photos; this includes learning journeys.
- Personal data will not be used in newsletters, website or other media without prior consent from the subject.
- A record should be kept of any personal data disclosed so that the recipient can be informed if the data is later found to be inaccurate.
- Restricted staff members of the nursery will access personal data on a need to know basis in the course of executing their duties. The qualified (level 2 / level 3 or above) professional staff requiring such data are fully aware of the obligations the nursery has under GDPR and DPA and they will only use the data for the purposes for which it is collected

### **We may pass data to:**

- the local authority – (regarding SEN, children receiving funding, safeguarding)
- Nurseries / Schools that a pupil attends after leaving this school
- The Department for Education (DfE)
- NHS
- third-party organizations, as allowed by law
- agencies that provide services on our behalf – (PE, Music time)
- agencies with whom we have a duty to co-operate
- Health visitors and School nurse
- External agencies, ie MASH, Social Workers, EP

**For further information about who we share with and why please see APPENDIX A.**

### **Retention Periods**

The nursery does not hold any data longer than necessary, having considered the purposes for processing and to cover any legal obligations we have with regards the Early Years Foundation Stage. In this regard, all personal data relating to children and their parents/legal guardian will be held for the period during which the child attended the nursery, with the exception of records selected to be kept for record purposes, and statistical data for up to a period of when the next Ofsted inspection takes place. Visual images not selected for historic record purposes will be kept for three years only.

Recordings of CCTV will be kept on the hard drive for 28 days. There is no time scale stated in GDPR or DPA; however due to the nature of the organization and the vulnerability of our children we feel this is an appropriate time scale.

In the event of recordings being copied and kept for safeguarding concerns, criminal offences or any other practices deemed inappropriate by management; Individuals concerned will be informed of this in writing.

Images will be recorded onto a USB memory stick and kept in a designated area until the footage is no longer required.

During inductions all staff are made aware of the CCTV and sign a consent form, providing permission for images to be recorded; in guidance with the policies and procedures in place at the nursery.

### **Processing of Visual Images**

Scallywags Nursery allows the taking of visual images in the form of photos, videos or other means, in its nursery activities. It is pertinent to point out that the nursery is only responsible for visual images taken by nursery representatives. Persons taking visual images for personal use during a nursery activity where permission has been given, are held responsible for the use of such visual images.

Upon admittance of children in the nursery, consent will be sought from parents/legal guardians where visual images are:

- Taken by nursery representatives in non-curricular activities;
- Used for communication purposes by publishing them on;
- Printed matter including internal and external publications (e.g. nursery newsletter and annual /transitional reports);
- Nursery notice boards
- Media – including newspapers and television
- The internet (nursery web sites);

Used for any other purpose other than administrative, nursery functions, historic and communications purposes. The consent given by parents/legal guardians may be withdrawn after informing the nursery manager or owner in writing. No visual image of the child in question will be taken after the consent has been withdrawn.

When a professional photographer is engaged by the nursery, the nursery shall ensure that the photographer understands GDPR and DPA considerations and that he/she is able to satisfy all responsibilities and obligations in accordance with the GDPR and DPA. This relationship will be regulated by a contract between the nursery and the photographer. Visual images are retained for a period of 3 years except for those selected to be kept for historic records of the nursery.

### **Child and Parents Rights / Legal guardian rights**

- You have the right to:
- be informed of data processing (which is covered by this Privacy Notice)
- access information (also known as a Subject Access Request)
- have inaccuracies corrected
- have information erased
- restrict processing
- data portability (this is unlikely to be relevant to nursery)
- intervention in respect of automated decision making (automated decision making is rarely operated within nursery)
- Withdraw consent (see below)

- Complain to the Information Commissioner's Office (See below)

**To exercise any of these rights please contact the nursery data champion.**

The request for information has to be made in writing duly signed by the parents/legal guardians and addressed to the manager of the nursery or the owner of the nursery. Requests concerning children are to be made by their parents/legal guardian on behalf of the child.

If the nursery receives a written request form to see any or all personal data that the nursery holds about them; should be treated as a Subject Access Request and the nursery will respond within the 40 day deadline unless there is a good reason for delay. When a request for access cannot be met within a reasonable time, the reason will be explained in writing to the parent/legal guardian making the request.

Informal requests to view or have copies of personal data will be dealt with wherever possible at a mutually convenient time but, in the event of any disagreement over this, the person requesting the data will be instructed to make their application in writing and the nursery will comply with its duty to respond within the 40 day time limit.

In the event that personal data proves to be incorrect, the parent/legal guardian concerned may request to rectify, erase or not to use the information in question.

Data protection statements will be included on any forms that are used to collect personal data.

**Withdrawal of Consent**

The lawful basis upon which the nursery process personal data is that it is necessary in order to comply with the nursery legal obligations and to enable it to perform tasks carried out in the public interest.

Where the nursery process personal data solely on the basis that you have consented to the processing, you will have the right to withdraw that consent.

**Complaints**

If you are unhappy with the way your request has been handled, you may wish to ask for a review of our decision by contacting the nursery data champion.

If you are not content with the outcome of the internal review, you may apply directly to the Information Commissioner (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted our internal review procedure. The Information Commissioner can be contacted at:

**The Information Commissioner's Office,**

**Wycliffe House,**

**Water Lane,**

**Wilmslow,**

**Cheshire**

**SK9 5AF.**

### **Who we share data with and why**

We do not share information about our pupils with anyone without consent unless the law and our policies allow us to do so.

We share pupils' data with the Department for Education (DfE) / Ofsted on a statutory basis. This data sharing underpins nursery funding and educational attainment policy and monitoring.

We are required to share information about our pupils with our local authority (LA) and the Department for Education (DfE) under section 3 of The Education (Information about Individual Pupils) (England) Regulations 2013.

The department for Education and LA may share information about our pupils with third parties who promote the education or well-being of children in England by:

- conducting research or analysis
- producing statistics
- providing information, advice or guidance

The Department and LA has robust processes in place to ensure the confidentiality of our data is maintained and there are stringent controls in place regarding access and use of the data. Decisions on whether DfE / LA releases data to third parties are subject to a strict approval process and based on a detailed assessment of:

- who is requesting the data
- the purpose for which it is required
- the level and sensitivity of data requested: and
- the arrangements in place to store and handle the data

To be granted access to pupil information, organisations must comply with strict terms and conditions covering the confidentiality and handling of the data, security arrangements and retention and use of the data.

For more information about the department's data sharing process, please visit:

<https://www.gov.uk/data-protection-how-we-collect-and-share-research-data>

To contact DfE: <https://www.gov.uk/contact-dfe>

### **Local Authority - education and training**

We are required, by law, to pass certain information about our pupils to local authorities.

The LA holds information about young people living in its area, including about their education and training history. This is to support the provision of their education up to the age of 20 (and beyond this age for those with a special education need or disability). Education institutions and other public bodies (including the Department for Education (DfE), police, and probation and health services) may pass information to the LA to help them to do this.

The LA shares some of the information it collects with the Department for Education (DfE) to enable them to; produce statistics, assess performance, determine the destinations of young people after they have left school or college and to evaluate Government funded programmers.

### **Local Authority – social services**

In order to comply with our statutory safeguarding duties we are required, by law, to pass certain information about our pupils to local authorities. Information will only be shared where it is fair and lawful to do so.

### **Police, Fire and Rescue Service, Ambulance Service and other emergency or enforcement agencies**

In order to comply with our duty of care to pupils, our statutory safeguarding duties and our obligations in respect of the prevention and detection of crime, we may also share personal data with other statutory and partnership agencies.

### **Data breaches and Critical Incident Plan**

Data security breaches are increasingly common occurrences whether these are caused through human error or via malicious intent. As technology trends change and the creation of data and information grows, there are more emerging ways by which data can be breached. Scallywags Nursery has in place a robust and systematic process for responding to any reported data security breach, to ensure it can act responsibly and protect its information assets as far as possible.

A data security breach is considered to be “any loss of, or unauthorised access to, nursery data”.

Examples of data security breaches may include:

- Loss or theft of data or equipment on which data is stored
- Unauthorised access to confidential or highly confidential nursery data
- Equipment failure
- Human error
- Unforeseen circumstances such as a fire or flood
- Hacking attack
- ‘Blagging’ offences where information is obtained by deceit
- For the purposes of this policy data security breaches include both confirmed and suspected incidents.

Lead responsible officers – data champions will be responsible for overseeing management of the breach in accordance with the Data Breach Management Plan. Suitable delegation may be appropriate in some circumstances.

The management response to any reported data security breach will involve the following four elements. See Appendix 3 of Data Security Policy / Critical Incident Plan Policy for suggested checklist.

- A. Containment and Recovery
- B. Assessment of Risks
- C. Consideration of Further Notification
- D. Evaluation and Response

Each of these four elements will need to be conducted in accordance with the checklist for Data Security Breaches. An activity log recording the timeline of the incident management should also be completed. See Appendix 4 Data Security Policy / Critical Incident Plan Policy.

If breaches are deemed high risk Scallywags will consult the ICO guidance on when and how to notify it about breaches. Scallywags Nursery will notify the ICO if a ‘personal data breach’ occurs. We will also notify customers if the breach is likely to adversely affect customers’ privacy, and keep a breach log The notification will take place within 72 hours of the breach happening.



**All enquiries related to this nurseries Data Protection Policy are to be addressed as follows:**

**Mrs Mary Attwater Nursery Owner / Manager  
Or Mrs Sarah Butler Nursery Owner / Manager**

**MELBOURNE SITE**

Sallywags Private Day Nursery  
Castle Lane  
Melbourne  
Derbyshire  
DE73 8JB

**CHELLASTON SITE**

Dunnicliff Bros Limited T/A Sallywags Nursery  
Rowallan Way  
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Derby  
DE73 5WX

**Reviewed by:**

**Date Reviewed:**