



The Bayleaf Hub **Data Protection and Access Policy**

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The Right of Access by Data Subject

The right of a Data Subject to request access to personal information or records held on them by the Home are set out in data protection legislation (namely the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018). Under this data protection legislation, those in respect of whom personal information is held in any form have a right of access to the information, unless one of the exemptions set out in [Section 2, Exemptions to the Right of Access](#) applies.

2. Exemptions to the Right of Access

The Data Protection Act 2018 (Schedule 3) contains exemptions to the rights of access set out in Article 15 of the UK GDPR for health, social work, education and child abuse data. The data subject's right of access to view their records is restricted in the following circumstances:

- Where the right of access would prejudice the carrying out of social work because access to the information would be likely to cause serious harm to the physical or mental health of the data subject or some other individual;
- Where the records contain child abuse data; there is an exemption if access to the record would not be in the best interests of the data subject. ("child abuse data" is defined in the Data Protection Act as personal data consisting of information as to whether the data subject is or has been the subject of, or may be at risk of, child abuse. For this purpose, "child abuse" includes physical injury (other than accidental injury) to, and physical and emotional neglect, ill-treatment and sexual abuse of, an individual aged under 18);
- Where the person is incapable of managing their affairs;
- Where complying with the right of access would mean disclosing information which was given by the data subject in the expectation that it would not be disclosed or is information which the data subject expressly indicated should not be disclosed;

Access can also be refused if:

- Disclosing information to the data subject would involve disclosing information relating to a third party who can be identified from the information. Unless (a) the other individual has consented to the disclosure of the information to the data subject, or (b) it is reasonable to disclose the information to the data subject without the consent of the other individual;
- Where disclosure may prevent the detection or investigation of a crime or jeopardise public or national security.

Access requests can also be refused if they are 'manifestly unfounded or excessive', for example if an identical or similar request has been received from the same person and already been complied with.



These exemptions do not justify the total withholding of information but only those records / parts of records covered by the exemptions. The remainder of the case records should be made available to the data subject. Before a copy of the case record is provided to a child / young person, care leaver or former service user, all of the information should be checked and any which falls within the exemptions listed above redacted or removed from the copy of the case record provided to the data subject. The data subject should be offered support and the opportunity to ask questions when they are given their case record.

The exemptions do not apply where disclosure is required by a court order or is necessary for the purpose of or in connection with any legal proceedings.

[3. Children Gaining Access to their Files/Records](#)

Pupils attending the school should be encouraged to take an interest in their achievement records and routinely given the opportunity to read and comment on them and to add further information to them. They should be helped to understand what personal information is contained in their case record, how it is used, how long it is kept for, who it may be shared with, and they should be given information about how they might be supported to access their records in later life.

Staff must also be familiar with information sharing requirements relating to the children they care for, and have access to the information sharing policy and procedures specified by the Safeguarding Children Partnership for the area where the Home is located. See also [Information Sharing](#).

Before case records are shown to children, consideration should be given to the likely effect of sharing the information. All information contained should normally be shared, unless it falls within the exemptions outlined in [Section 2, Exemptions to the Right of Access](#). If in doubt or if there are concerns about the likely effect on the child, the child's social worker and the Home's manager must be consulted.

Should staff need to share information provided by previous carers or third parties they should:

- Read the records/reports beforehand;
- Speak to the authors if possible and obtain their consent to the sharing of information.

Before the pupil is shown their file, staff should:

- Collate the records in chronological order and check they use plain, easy to understand language;
- Give thought to what questions the young person may ask;
- Offer appropriate support to the child / young person;
- A note should be placed on the Daily Record each time a child has access to records or their file.

[4. Changing a Record](#)



If a child claims that information contained in the record/file is inaccurate, incorrect or misleading they may ask for it to be corrected or changed. A response to such a request should be provided in 1 month and the head teacher (or other member of staff) should take reasonable steps to establish if the data is accurate and rectify the record if necessary.

If there is disagreement between the originator and the child, the head teacher should make a decision on whether or how the record should be amended.

This may result in the original record remaining the same and an additional record of the child's views being made.

[5. Further Information](#)

Legislation, Statutory Guidance and Government Non-Statutory Guidance

[The Data Protection Act 2018](#)

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Information Sharing

Everyone working in the school has a responsibility to ensure that personal information collected on children is stored securely, and that when it is shared with other agencies this is done appropriately and in accordance with the law.

When working with children and families, effective sharing of information is essential for the early identification of need, in order to complete robust assessments and to provide services which are tailored to individual need.

Keeping children safe from harm will require staff and others to record, analyse, understand the significance of and share information about:

- A child's health and development and exposure to possible harm;
- Individuals (adults and other children / young people) who may pose a risk of harm to a child.

Staff at The Bayleaf Hub should be proactive and share information as early as possible where this will help to identify, assess and respond to risks or concerns about the safety and welfare of children. Information sharing is also essential for the identification of patterns of behaviour; for example when a child has gone missing or is at risk of going missing, and when multiple children appear associated to the same context or locations of risk (this would include for example, concerns around trafficking, Child Sexual Exploitation and Child Criminal Exploitation).

Often, it is only when information from a number of sources has been shared and is then put together, that it becomes clear that a child has suffered, or is likely to suffer, significant harm.

Staff should not assume that someone else will pass on information that they think may be critical to keeping a child safe. Anyone who has concerns about a child's welfare and considers that they may be a Child in Need or that the child has suffered or is likely to suffer significant harm, should share their concerns with the child's allocated social worker and/or the police or Children's Social Care.



Staff should be particularly alert to the importance of sharing information when a child moves from one local authority into another, due to the risk that knowledge pertinent to keeping a child safe could be lost - for example of a child moves to a school or placement in another local authority area.

All staff who work with children should complete GDPR training - including refreshers. This training should equip staff with the skills and knowledge to share information in a timely and safe way.

Staff should use their professional judgement and knowledge from this training when making decisions about when to share information. If a staff member has any concerns or doubts, the school's manager or safeguarding lead should be consulted for advice.

[2. The Legal Framework](#)

The Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR) provide a legal framework to ensure that personal information which is collected and processed by organisations is done so fairly and lawfully, that it is accurate and relevant, stored securely (for no longer than necessary) and that, when it is shared, this is done appropriately and lawfully.

However, this legislation does not prevent, or limit, the sharing of information for the purposes of keeping children safe. The UK GDPR provides a number of bases/reasons which set out when personal information of the type collected by children's schools can be shared between organisations. One of these bases is that the individual has consented to their information being shared. However, it is not necessary to seek consent to share information for the purposes of safeguarding and promoting the welfare of a child. This means that fears about sharing information must not be allowed to stand in the way of the need to promote the welfare, and protect the safety of, children.

It is important that staff in the school understand the data protection principles which allow them to share personal information. The UK GDPR and Data Protection Act 2018 emphasise the need for organisations to be transparent and accountable in relation to their use of data. All organisations handling personal data must ensure they have comprehensive and proportionate arrangements for collecting, storing, and sharing information. This also includes arrangements on informing children (and their families) about the information that the school will collect about them and how this may be shared.

[2.1 Terminology used in the Data Protection Act and UK GDPR](#)

[Personal Data](#) - Under the UK GDPR, personal data covers information which could be used to identify a person (also sometimes called the 'data subject'). This includes for example, a person's name, address, or an identification / file number.

[Special category data](#) - Under the UK GDPR, special category data relates to information about individuals which is particularly sensitive and so needs greater protection before it is shared. This includes for example, information about a person's race and ethnic origin, their health and sexual orientation.



[Lawful Basis for Sharing Information \(UK GDPR Article 6\)](#) - The UK GDPR provides practitioners with a number of lawful bases for sharing information. It is not necessary to seek consent to share information for the purposes of safeguarding and promoting the welfare of a child, providing there is another lawful basis for the sharing.

[Consent](#) - Consent is also a lawful basis for sharing information in UK GDPR and would cover sharing where the individual has given clear consent for you to process their personal data for a specific purpose. However, the UK GDPR sets a high standard for consent to share information and requires that it must be specific, time limited and able to be withdrawn.

Consent means offering individuals real choice and control. Genuine consent should put individuals in charge, build trust and engagement. Consent is one lawful basis for processing information, but there are five others. It is important to always choose the lawful basis that most closely reflects the true nature of your relationship with the individual and the purpose of the processing.

Where there is a clear risk of significant harm to a child, or serious harm to adults, practitioners should be confident that they can (and should) share information.

Whenever any information is shared it should be proportionate, and a record should be kept of what has been shared, with whom and for what purpose and the reasoning behind it.

[3. Key Points for staff when Sharing Information](#)

- Where possible, share information with consent, and where possible, respect the wishes of those who do not consent to having their information shared;
- However, you may still share information without consent if, in your judgement, there is a lawful basis to do so, such as where the safety of a child or adult may be at risk. You will need to base your judgement on the facts of the case. When you are sharing or requesting personal information from someone, be certain of the basis upon which you are doing so;
- Seek advice from other practitioners (such as your manager or safeguarding lead) if you are in any doubt about sharing the information concerned, this should be done without disclosing the identity of the individual where possible;
- Information sharing should always be necessary, proportionate, relevant, accurate, timely and secure: Ensure that the information you share is necessary for the purpose for which you are sharing it, that it is shared only with those people who need to have it, that it is accurate and up-to-date, that it is shared in a timely fashion, and that it is shared securely;
- Keep a record of your decision and the reasons for it - whether it is to share information or not. If you decide to share, then record what you have shared, with whom and for what purpose.

Source: [Working Together to Safeguard Children](#) and [Information Sharing: Advice for Safeguarding Practitioners](#).

[4. Informing Children and Families about Information Sharing](#)



Regular information sharing between the School, Children's Social Care, the police and other local agencies (such as schools and health practitioners), will be essential for keeping children safe and ensuring they get the support they need.

Children should be informed of the circumstances in which information about them will be shared routinely with other professionals and their consent to this sharing should be sought. This information should be provided in the form of a Children's Guide, a Privacy Notice or in other ways, and it will be made clear that in each case the information shared will be limited and only include that which is relevant.

[5. Sharing Information with other Professionals to Provide the Best Possible Care](#)

Sharing relevant information promptly with others working with the same child is central to safeguarding the child's interests and to ensuring they receive the best possible care. Staff in the School should work in partnership with other professionals involved in caring for the child (for example, education, social workers, health practitioners and youth justice) to monitor the child's progress, share information and obtain expert advice as appropriate.

Where information is requested by telephone or electronically, great care must be taken to ensure that the recipient is entitled to receive the information requested. Where there is any doubt the information may not be provided without the approval of a senior leader.

[6. Further Information](#)

Legislation, Statutory Guidance and Government Non-Statutory Guidance

[Information Sharing: Advice for Safeguarding Practitioners](#)

[Working Together to Safeguard Children \(DfE\)](#)