

Confidentiality and Information Sharing Policy

At Kingfisher Kindergarten, we respect the privacy and confidentiality of children, parents, carers, families and staff. We recognise that families provide us with personal and sometimes sensitive information in confidence. We are committed to handling this information responsibly, lawfully and securely.

Confidentiality is important, but it is not absolute. There are circumstances in which information must or may lawfully be shared with other people or organisations. This may include circumstances where sharing information is necessary to safeguard a child, protect an adult or another person from serious harm, protect someone's life, prevent or detect crime, comply with a legal obligation, or enable appropriate support or services to be provided.

Our approach is to share information:

- lawfully and fairly
- transparently wherever it is appropriate and safe to do so
- only for a legitimate and necessary purpose
- proportionately
- accurately
- securely
- only with people who have a legitimate need to receive it

This policy applies to all staff, managers, volunteers, students, committee members and other individuals working on behalf of Kingfisher Kindergarten.

Legal and regulatory framework

This policy has been developed with regard to the legal and statutory framework applicable to private early-years providers in England, including:

- UK General Data Protection Regulation (UK GDPR)
- Data Protection Act 2018
- Data (Use and Access) Act 2025
- Children Act 1989
- Children Act 2004
- Equality Act 2010
- Human Rights Act 1998
- the Early Years Foundation Stage (EYFS) statutory framework
- Working Together to Safeguard Children 2026
- statutory guidance concerning information sharing to safeguard children and young people.

We will also comply with relevant court orders, statutory requirements, regulatory requirements and applicable local safeguarding arrangements.

Confidentiality

Information provided to Kingfisher Kindergarten will normally be treated as confidential. Confidential information will only be accessed, discussed or shared by people who have a legitimate reason to receive it. Confidentiality does not mean that information must never be shared. Where there is a lawful and necessary reason to share information, confidentiality will not prevent an appropriate disclosure.

Before sharing confidential information, staff should consider:

- why the information needs to be shared
- whether sharing is necessary and proportionate
- what information is relevant
- who needs to receive it
- the lawful basis for sharing
- whether the information is particularly sensitive

- whether the child or parent/carer should be informed
- whether informing them could create or increase a risk
- how the information can be shared securely

We will not disclose more information than is reasonably necessary for the particular purpose.

Safeguarding and information sharing

The safety and welfare of children is a primary consideration when making safeguarding decisions. Information may need to be shared without consent where this is necessary and lawful to:

- protect a child from abuse or neglect
- prevent or respond to a risk of significant harm
- protect an adult or another person from serious harm
- protect someone's life
- prevent, detect or investigate crime
- comply with a legal obligation or court order
- support a lawful safeguarding process
- enable another organisation to carry out a lawful function or provide appropriate services where the legal requirements for sharing are satisfied

We will not require parental consent before making a safeguarding referral where consent is not the appropriate lawful basis or where obtaining consent could place a child or another person at increased risk. Data protection law does not prevent the lawful sharing of information for safeguarding purposes. The ICO confirms that consent is not required simply because information about a child is being shared for safeguarding purposes.

Where there is concern that a child may be suffering, or may be at risk of suffering, significant harm, staff must follow our Safeguarding and Child Protection Policy and immediately inform a Designated Safeguarding Lead (DSL). Where appropriate, we will seek advice from the local authority safeguarding support services, children's social care, the police, health professionals or another relevant safeguarding agency.

Consent

Consent is one possible lawful basis for processing personal information. It is not, however, the default requirement for information sharing.

Where consent is appropriate, it must be:

- freely given
- specific
- informed
- unambiguous
- capable of being withdrawn

We will explain to parents and carers, through its privacy information and relevant policies, how their information and their child's information may be used and shared. Consent may be sought where, for example, we wish to share information for a purpose where consent is the appropriate lawful basis.

The Kindergarten will not seek consent where:

- there is another appropriate lawful basis for sharing
- there is a legal requirement or court order
- seeking consent could place a child or another person at risk
- seeking consent could prejudice a safeguarding assessment or investigation
- seeking consent could prejudice the prevention or detection of crime

Where consent is refused, we will consider whether another lawful basis permits or requires the information to be shared. A refusal to consent does not prevent us from sharing information where another lawful basis applies.

Lawful bases for sharing information

As a private early-years provider, Kingfisher Kindergarten will identify an appropriate lawful basis under the UK GDPR and Data Protection Act 2018 for collecting, using and sharing personal information.

Depending on the circumstances, this may include:

- Legal obligation – where processing is necessary to comply with a legal requirement
- Legitimate interests – where processing is necessary for the legitimate interests of the Kindergarten or a third party and those interests are not overridden by the individual's rights and freedoms
- Contract – where processing is necessary to perform a contract with a parent/carer or to take steps at their request before entering into a contract
- Vital interests – where processing is necessary to protect someone's life
- Consent – where consent is the appropriate lawful basis and the requirements for valid consent are satisfied
- Public task, but only where the Kindergarten is genuinely carrying out a task in the public interest or an official function with a clear basis in law

We will not assume that the lawful basis available to another organisation automatically applies to us. We will not rely on public task simply because it is cooperating with a public authority, local authority, school, health service or other statutory organisation.

The Data (Use and Access) Act 2025 introduced a further recognised legitimate interest lawful basis for specified purposes, including safeguarding vulnerable people, responding to emergencies, preventing or investigating crime and certain information sharing with organisations carrying out public tasks. Where applicable, we may rely on this basis in accordance with the statutory requirements.

The appropriate lawful basis will depend on the purpose and circumstances of the particular processing or disclosure. The ICO confirms that no single lawful basis is automatically preferable and that organisations should avoid adopting a one-size-fits-all approach.

Where legitimate interests are relied upon, we will consider:

- whether there is a legitimate interest
- whether processing is necessary to achieve that interest
- whether the individual's interests, rights or freedoms override that legitimate interest

Where appropriate, a Legitimate Interests Assessment (LIA) will be completed and retained.

Special category information

Some personal information is subject to additional protection under data protection law. This includes information concerning matters such as:

- health
- disability
- racial or ethnic origin
- religion or philosophical beliefs
- sexual orientation
- certain biometric or genetic information

Where special category information is processed or shared, we will identify:

- an appropriate Article 6 lawful basis
- an applicable Article 9 condition.

Where required, we will also comply with the additional requirements of the Data Protection Act 2018. Staff must not assume that a general lawful basis automatically permits the sharing of special category information. Where staff are uncertain, they must seek advice from the DSL, manager or person responsible for data protection.

Criminal offence information

Information concerning criminal convictions, offences or alleged offences will only be processed or shared where the requirements of data protection law are satisfied. Where such information is involved, staff should seek advice from the DSL, manager or person responsible for data protection unless an immediate safeguarding or emergency situation requires urgent action.

Safeguarding referrals

We recognise that timely and appropriate information sharing is an essential part of effective safeguarding. Where a member of staff has a safeguarding concern, they must follow the Kindergarten's Safeguarding and Child Protection Policy and report the concern to the DSL without delay.

Where necessary, we may share information with:

- children's social care
- the police
- health professionals
- the local authority
- safeguarding partners
- schools
- other early-years providers
- SEND services
- health visitors
- other professionals involved in supporting or safeguarding the child
- other appropriate statutory or voluntary organisations

The Kindergarten will cooperate with lawful safeguarding information requests. Staff must not allow uncertainty about data protection or confidentiality to delay an urgent safeguarding referral. The Department for Education's statutory information-sharing guidance applies to organisations and practitioners working with children, including early-years providers.

Statutory information-sharing duty

The Children's Wellbeing and Schools Act 2026 introduced section 16LA into the Children Act 2004, creating a statutory duty to share certain information relevant to safeguarding and promoting children's welfare. The duty comes into force on 30 September 2026. The statutory duty applies to specified categories of relevant persons and organisations set out in the legislation. Its application to a particular private early-years provider depends on whether that provider falls within the relevant statutory category or is providing services within the scope specified by the legislation.

We will:

- comply with any statutory information-sharing duty that applies to the Kindergarten
- have regard to applicable statutory information-sharing guidance
- cooperate appropriately with safeguarding agencies
- share relevant information where there is a lawful basis and a safeguarding need
- not use confidentiality or data protection as a reason to withhold information where lawful disclosure is required
- ensure that any disclosure remains necessary, proportionate and secure

The statutory duty does not provide a general permission to disclose all information to anyone who requests it. The scope of the duty and the circumstances for disclosure must be considered in each case. The legislation also provides that a disclosure made under section 16LA does not breach an obligation of confidence owed by the person making the disclosure.

Information sharing with parents and carers

Parents and carers will normally be informed about how their information and their child's information is collected, used and shared through the Kindergarten's privacy information and relevant policies. However, the Kindergarten may decide not to inform a parent or carer about a particular disclosure where doing so could:

- place a child or another person at increased risk of harm
- prejudice a safeguarding assessment or investigation
- prejudice the prevention or detection of crime
- breach a court order or legal requirement
- otherwise be unlawful or inappropriate

Where a decision is made not to inform a parent or carer, the reasons should be recorded.

Sharing information with other professionals

Information may be shared with other professionals where there is a legitimate and lawful reason to do so.

Examples include sharing information:

- with a child's school as part of an appropriate transition
- with another early-years provider when the child moves setting
- with health professionals involved in the child's care
- concerning SEND or additional needs where appropriate
- with children's social care
- with the police
- with the local authority
- with Ofsted or another regulatory body where required or permitted
- pursuant to a court order
- with another organisation involved in safeguarding or supporting the child

Information will only be shared where we have identified an appropriate purpose and lawful basis.

Accuracy and data minimisation

Information shared must be:

- accurate
- kept up to date where necessary
- relevant to the purpose
- adequate but not excessive
- limited to what is necessary
- shared only with people who need to receive it
- recorded accurately

Where information is an allegation, professional opinion or information that has not been verified, this should be made clear in the record. We will take reasonable steps to correct inaccurate information where appropriate.

Secure information sharing

Personal information must be shared securely. Staff must use only systems and methods approved by the Kindergarten when transmitting confidential information.

Depending on the circumstances, secure sharing may include:

- approved secure or encrypted email
- secure professional portals
- telephone communication where appropriate
- face-to-face communication
- another approved secure method

Confidential information must not normally be sent through:

- personal email accounts
- personal messaging applications
- personal cloud storage
- social media
- other unauthorised systems

Staff must take care when discussing confidential information in public areas or where conversations may be overheard.

Requests for information

When another organisation or individual requests information about a child or family, staff must not automatically disclose it. The request should be referred to the DSL, manager or person responsible for data protection where appropriate.

The person dealing with the request should establish:

- who is requesting the information

- their identity and authority
- why the information is required
- what information is required
- the lawful basis for disclosure
- whether additional legal requirements apply
- whether the disclosure is necessary and proportionate
- how the information will be shared securely

Requests from statutory agencies should be dealt with promptly, particularly where safeguarding is involved.

Emergency situations

In an emergency, information may be shared where necessary to protect someone's life or prevent serious harm. Staff should not delay necessary action while attempting to obtain consent where an immediate risk exists. Only information that is necessary and proportionate should be shared.

Following an emergency disclosure, the staff member should inform the DSL or manager as soon as practicable and ensure that the decision and circumstances are recorded.

Information-sharing decision-making

Information-sharing decisions should be made by an appropriately authorised member of staff.

Safeguarding concerns must be discussed with the DSL as soon as possible. Staff should not make difficult or significant safeguarding disclosure decisions in isolation where advice can reasonably be obtained. However, the need to obtain management approval must not delay an urgent safeguarding referral or disclosure where immediate action is required.

Before sharing information, the person making the decision should consider:

- What is the purpose of sharing the information?
- Is sharing necessary and proportionate?
- What information is actually required?
- Who needs to receive it?
- What is the appropriate lawful basis?
- Does the information include special category data?
- Does it include criminal-offence information?
- Is there a legal obligation, statutory requirement or court order?
- Is consent appropriate in the circumstances?
- If consent is not being sought, why is this appropriate?
- Would seeking consent place a child or another person at increased risk?
- Could informing the person prejudice a safeguarding or criminal investigation?
- Is the information accurate and sufficiently up to date?
- Is the information being shared securely?
- Have the reasons for the decision been recorded?

Recording information-sharing decisions

We will maintain an appropriate record of significant decisions to share, or not to share, information.

The record should include, where appropriate:

- date and time
- the information considered
- the purpose of sharing
- the organisation or person receiving the information
- what information was shared
- the lawful basis relied upon
- any applicable special category condition
- whether consent was sought, obtained, refused or considered inappropriate
- the safeguarding concern or other circumstances
- advice obtained
- the decision reached

- reasons for the decision
- any follow-up action required

Where a decision is made not to share information, the reason for that decision should also be recorded where appropriate.

Confidentiality within the Kindergarten

All staff, students, volunteers, committee members and other individuals working on behalf of Kingfisher Kindergarten are expected to maintain confidentiality. Staff must only access information where they have a legitimate work-related reason.

Staff must not:

- discuss children or families with colleagues who do not need the information
- discuss confidential matters outside the Kindergarten
- share confidential information through personal social media
- take confidential records away from the Kindergarten without authorisation
- disclose information to friends, relatives or other third parties without a lawful reason

A breach of confidentiality may result in appropriate management or disciplinary action. Nothing in this policy prevents a member of staff from raising a safeguarding concern or making a lawful protected disclosure.

Children and their information

We recognise that children have rights in relation to their personal information. Where appropriate to the child's age and understanding, children will be given information about the use and sharing of their information in an accessible and age-appropriate way. We will take children's views into account where appropriate when making decisions about their information, while recognising that safeguarding responsibilities may require information to be shared without the child's agreement.

Data protection rights

We will respect applicable data protection rights.

Depending on the circumstances, individuals may have rights concerning:

- being informed about the use of their information
- access to personal information
- correction of inaccurate information
- restriction of processing
- objection to certain processing
- erasure where the relevant legal requirements are met
- other rights provided by applicable legislation

These rights are not absolute and may be subject to exemptions, including in some safeguarding and law-enforcement circumstances. Requests concerning data protection rights will be handled in accordance with the Kindergarten's Data Protection and Privacy Policy and applicable legal requirements.

Retention and disposal

Personal information will only be retained for as long as necessary for the purpose for which it is held, taking account of legal, regulatory, safeguarding and operational requirements. We will not retain personal information simply because it might be useful at an unspecified future date. Records will be securely disposed of when the applicable retention period has expired unless there is a lawful reason to retain them for longer. There is no single statutory retention period for all safeguarding information. Retention periods must be appropriate to the circumstances and purpose for which the information is held.

Personal data breaches

Any suspected or actual loss, unauthorised disclosure, alteration, destruction or unauthorised access involving personal information must be reported immediately to the manager, DSL or person responsible for data protection.

Examples include:

- sending information to the wrong person
- losing confidential records
- unauthorised access to electronic records
- accidentally disclosing information
- discussing confidential information where it can be overheard
- using an unauthorised system to transmit personal information
- accidentally publishing personal information

We will assess suspected personal data breaches and take appropriate action, including notifying the Information Commissioner's Office or affected individuals where legally required.

Training and responsibilities

All staff will receive appropriate information and training concerning:

- confidentiality
- safeguarding
- data protection
- information sharing
- secure handling of information
- recognising and reporting data breaches
- circumstances in which information may need to be shared without consent

The DSL and management will ensure that staff know how to obtain advice when they are uncertain about information sharing.

Responsibilities of the DSL and management

The DSL has particular responsibility for ensuring that safeguarding-related information sharing is handled appropriately and that safeguarding concerns are escalated in accordance with the Kindergarten's safeguarding procedures.

Management is responsible for ensuring that:

- this policy is implemented
- staff receive appropriate training
- appropriate information-sharing arrangements are in place
- significant decisions are recorded
- data protection responsibilities are understood
- the policy remains consistent with current legislation and statutory guidance

Where specialist advice is required, we will seek appropriate professional advice.

Information-sharing agreements

Where appropriate, we may enter into information-sharing agreements with other organisations. Any agreement should clearly identify, where relevant:

- the purpose of information sharing
- the information to be shared
- the organisations involved
- the lawful basis
- responsibilities of each organisation
- security arrangements
- retention and disposal arrangements
- procedures for dealing with errors and breaches
- arrangements for reviewing the agreement

The existence of an information-sharing agreement is not, by itself, a lawful basis for sharing personal information. Each disclosure must still satisfy the applicable legal requirements.

Working with families

We aim to work openly and constructively with children, parents and carers wherever this is consistent with safeguarding and legal requirements.

Families will be provided with clear privacy information explaining, as appropriate:

- what information the Kindergarten collects
- why it is collected
- how it is used
- when it may be shared
- who it may be shared with
- the rights individuals have under data protection law

Parents and carers will receive information about this policy when their child starts at the Kindergarten and will be informed of significant changes where appropriate.

Review of this policy

This policy will be reviewed at least annually and sooner where there are significant changes to:

- legislation
- statutory guidance
- the EYFS framework
- safeguarding arrangements
- ICO guidance
- the Kindergarten's activities
- information-sharing arrangements
- relevant regulatory requirements

The Kindergarten will ensure that the policy remains consistent with current requirements applicable to private early-years providers in England.

Related policies and documents

This policy should be read alongside:

- Safeguarding and Child Protection Policy
- Data Protection and Privacy Policy
- Privacy Notice
- Records Management and Retention Policy
- Special Educational Needs and Disability Policy
- Complaints Policy
- Staff Code of Conduct
- Staff Confidentiality Agreement
- relevant local safeguarding procedures

Parent/Carer acknowledgement

Parents and carers will be informed that:

- Kingfisher Kindergarten respects the confidentiality of information provided by families
- information will normally be handled confidentially
- information may be shared where there is a lawful and necessary reason to do so
- consent will be sought where consent is the appropriate lawful basis
- consent will not necessarily be sought where another lawful basis applies, particularly where safeguarding is concerned
- information may be shared without consent where necessary to protect a child or another person, comply with a legal requirement, prevent or detect crime, or in other circumstances permitted or required by law
- information will be shared only to the extent necessary and proportionate for the relevant purpose.

This policy was reviewed by Kingfisher Kindergarten Ltd

Date to be reviewed

Annually

Signed on behalf of the provider

La-Ryne van der Westhuizen

Role of signatory

Owner