

Mehria Wonderland Nursery



GDPR and Freedom of Information Policy

Date agreed: 02/09/2026

Review date: 02/09/2027

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Mehria Wonderland Nursery Data Protection and Freedom of Information Policy

Aims & Objectives:

The aim of this policy is to provide a model set of guidelines to enable staff and parents to understand:

- The law regarding personal data
- How personal data should be processed, stored, archived and deleted/destroyed
- How staff and parents can access personal data

In addition, there is brief guidance at the end of the policy on Freedom of Information which covers other information held by Mehria Wonderland Nursery.

The objective of the policy is to ensure that the Mehria Wonderland Nursery acts within the requirements of the recently updated Act named the 'General Data Protection Regulation' which came into force on the 25th of May 2018. It regulates the way that Data Controllers including Mehria Wonderland Nursery, process personal data about people (children, parents, employees etc.) and the legal rights that individuals have in relation to that data whilst retaining and storing personal data, and when making it available to individuals, and that the process of responding to enquiries for other information is also legal under the Freedom of Information Act 2000 (in force from 1st January 2005).

GDPR – the law:

- GDPR, and other regulating acts, access to their own personal information is a statutory right for pupils (if they are of an age to understand the information they request) and parents (as defined in the Education Act 1996) may also request access to their child's personal data.
- Mehria Wonderland Nursery staff members have a right of access to personal data on themselves.
- Anyone has the right to question and correct inaccurate information, but this must be matters of fact, not opinions.
- Personal data should always be kept securely and protected by passwords if it is electronic, and access to it should only be by those authorised to see it – confidentiality should be respected. The law also provides that personal data should not be kept longer than is required.
- Third party data (information about someone other than the requesting individual) should in general only be provided with their permission.
- Personal data should always be of direct relevance to the person requesting the information. A document discussing more general concerns may not be defined as personal data.
- The named person with overall responsibility for personal data within the Mehria Wonderland Nursery is Deputy Manager and Data Protection Officer: Miss Nadia Akhtar

Processing, storing, archiving and deleting personal data: guidance

- Personal data and all records held by Mehria Wonderland Nursery about children are confidential to every individual child. The information can be shared appropriately within the professional working of Mehria Wonderland Nursery as a way to enable the setting to make the best educational provision for the child. The law permits such information to be shared with other educational establishments when children leave from Mehria Wonderland Nursery.
- Mehria Wonderland Nursery records for a child will be kept for 7 years after the child leaves the setting or until the child reaches 25 years of age (whichever is greater), this applies the same for assessment records as well.
- Data about staff is sensitive information and confidential to the individual, and is shared, where appropriate, at the discretion of the Senior Manager and with the knowledge, and if possible the agreement of the staff member concerned.
- Interview records, CV's and application forms for unsuccessful applicants are kept for 6 months.
- All formal complaints made to the Senior Manager will be kept for at least seven years in confidential files, with any documents on the outcome of such complaints. Individuals concerned in such complaints may have access to such files subject to data protection and to legal professional privilege in the event of a court case.

Accessing personal data: guidance

- A child can request access to his/her own data. The request is not charged and does not have to be in writing. The staff will judge whether the request is in the child's best interests, and that the child will understand the information provided. They may also wish to consider whether the request has been made under coercion.
- A parent can request access to or a copy of their child's records and other information held about their child. The request must be made in writing. There is no charge for such requests on behalf of the child, but there may be a charge for photocopying records – this is detailed in guidance available from the Information

Commissioner. Staff should check, if a request for information is made by a parent, that no other legal obstruction (for example, a court order limiting an individual's exercise of parental responsibility) is in force.

- Separately from the Data Protection Act, The Education (Pupil Information) (England) Regulations 2005 provide a pupil's parent (regardless of the age of the pupil) with the right to view, or to have a copy of, their child's educational record at Mehria Wonderland Nursery. Parents who wish to exercise this right must request this in writing.
- For educational records (unlike other personal data; see below) access must be provided within 15 working days, and if copies are requested, these must be supplied within 15 days of payment being received.
- A member of staff can request access to their own records at no charge, but the request must be made in writing. The member of staff has the right to see their own records, and to ask for copies of the records. There is no charge for copies of such records.
- The law requires that all requests for personal information are dealt with within 40 days of receipt, except requests for educational records (see above). All requests will be acknowledged in writing on receipt, and access to records will be arranged as soon as possible. If awaiting third party consents, the setting will arrange access to those documents already available, and notify the individual that other documents may be made available later.
- In all cases, should third party information (information about another individual) be included in the information, the staff will try to obtain permission to show this information to the applicant, with the exception of information provided by another member of the setting staff (or local authority staff) which is exempt from a requirement for third party consents. If third party permission is not obtained the person with overall responsibility (Miss Nadia Akhtar), should consider whether the information can still be released.
- From 1st January 2005, when the Freedom of Information Act came into force, a request for personal information can include unstructured as well as structured records – for example, letters, emails etc. not kept within an individual's personal files, or filed by their name, but still directly relevant to them. If these would form part of a wider record it is advisable to file these within structured records as a matter of course and to avoid excessive administrative work. These can be requested if sufficient information is provided to identify them.
- Anyone who requests to see their personal data has the right to question the accuracy of matters of fact within the data, and to ask to have inaccurate information deleted or changed. They may also question opinions, and their comments will be recorded, but opinions do not need to be deleted or changed as a part of this process.
- The Nursery will document all requests for personal information with details of who dealt with the request, what information was provided and when, and any outcomes (letter requesting changes etc.) This will enable staff to deal with a complaint if one is made in relation to the request.

Fair processing of personal data: data which may be shared

Mehria Wonderland Nursery's, local education authorities and the Department for Education (DfE) all hold information on children in order to run the education system, and in doing so have to follow the Data Protection Act 1998. This means, among other things that the data held about children must only be used for specific purposes allowed by law. Mehria Wonderland Nursery has a Fair Processing or Privacy Notice which explains how personal data is used and with whom it will be shared.

Access to other Nursery information – guidance on Freedom of Information

Publication Schemes informs our policy and practice as follows:

- Under the Freedom of Information Act 2000, Education providers including (primary, secondary and nursery) have a 'publication scheme' – essentially a formal list of the types of non-personal information which the Nursery produces or holds, and which is readily accessible to staff, pupils and parents or other enquirers.
- The publication scheme should be available as a hard copy and also posted on the website. The model scheme supplied by the Information Commissioner's Office should have been adopted from January 2009.
- The Nursery has made this document available to see, via our website to a list of publications with details of contacts, costs, and any other appropriate downloads.

Requests for information

- The Freedom of Information Act came into force on 1st January 2005. Under this Act, all registered early years provisions, should have received a written or emailed request for information which they hold or publish are required to respond within 20 working days.
- Mehria Wonderland Nursery will provide information on where to access the information required e.g. the website link or details of a charge if the publication/information is charged, or send any free information. If the item is charged the setting is not obliged to provide it until the payment is received.
- A refusal of any information requested must state the relevant exemption which has been applied or that the setting chooses not hold the information, and must explain what public interest test has been made, if this applies.
- If the information is published by another organisation (for example, Ofsted reports, DfE leaflets) the setting can direct the enquirer to the organisation which supplied the information or publication unless it is legal and possible to provide the information direct (for example, a copy of the summary of an Ofsted report, spare copies of a DfE leaflet).

- It will not be legal to photocopy a publication in its entirety and supply this to an enquirer unless the setting owns the copyright – this is particularly important where the original publication was a charged item.
- The Nursery will keep the original request and note against this who dealt with the request and when the information was provided.
- Any complaint about the provision of information will be handled by the Senior Manager and Deputy Manager. All complaints should be in writing and documented. The Publication Scheme will include information on who to contact for both enquiries and complaints.
- All enquirers should be advised that they may complain to the information Commissioner if they are unhappy with the way their request has been handled. The address to which the complaint can be posted is available on the Publication Scheme.

Changes in law from Data Protection Act to the GDPR:

Sensitive personal data, includes information relating to a person's racial, ethnic origin, sexual orientation, political opinions, medical information, genetic or biometric data which is used as a means to help identify a unique individual.

Mehria Wonderland Nursery is involved in storing personal and sensitive data of staff and children both digitally and in writing. The responsibility of holding enormous amounts of data of both children, parents and staff members is never taken lightly, Mehria Wonderland Nursery ensures that all data received is recorded accurately, stored securely, utilised only for its intended purpose and lastly disposed appropriately through the shredder, before discarding.

When considering the magnitude of the changes put in place by the law, it can be understood how the Data Protection Act is no longer fit for purpose.

The GDPR defines what is meant by: personal data, what rights data subjects have, and the obligations on Mehria Wonderland Nursery as well as other data controllers regarding the storage and use of data. Breaching this law, can consequent in financial penalties, which can go up to 20 million euros.

Another change which is now compulsory upon Mehria Wonderland Nursery is to have a contract or Service Legal Agreement (SLA), in place to which you give the responsibility to process data on your behalf.