

## **Burmantofts Community Nursery – Recruitment Privacy Notice**

### **How we use Recruitment Information for Applicants**

Burmantofts Community Nursery take your data protection rights and our legal obligations seriously. Your personal data will be treated in a secure and confidential manner and only as set out below or otherwise notified to you in writing.

Burmantofts Community Nursery will be the data controller of your personal data. We have a Data Protection Officer (DPO) who is responsible for monitoring our compliance with data protection law. You may contact the Nursery's Data Protection Officer securely and confidentially at any time if you have any concerns about the processing of your personal data or any data protection issue. Please contact the Chair of the Trustees to proceed further.

Burmantofts Community Nursery collects and processes your personal data for the purposes described in this Recruitment Privacy Notice. The term 'Applicants' in this privacy notice is used to cover Prospective Employees, Volunteers, Contractors, Agency Staff, Trainees and Regular Service Providers applying to work with or for Burmantofts Community Nursery.

The categories of personal information that we collect, hold and share as part of the recruitment process include:

- Personal Information (such as name, age, date of birth, marital status, national insurance number, telephone numbers and address, disabilities, medical conditions, personal identification including a photograph).
- Pre-Recruitment Vetting Information (such as applications for post, interview and/or assessment records, qualifications, training, employment history, references, pre recruitment checks including relevant criminal records disclosure, right to work in the UK and professional registration).
- Professional Information (current salary, current job role, reason for leaving, start date, continuous service date, qualifications, training, employment history, reference requests).
- Characteristics, where permitted by law and provided voluntarily (such as gender, ethnicity, language, nationality, country of birth, sexual orientation).
- Performance Information (such as data from assessments, Learning Walks or Observations carried out as part of the recruitment process).
- Human Resources Information (such as emails, letters and notes relating to the recruitment process).
- Safeguarding Information (such as digital monitoring and CCTV or any record of safeguarding concerns obtained as part of the recruitment process, and safeguarding information obtained in references).

- Health and Safety Information (such as records of injuries, incidents or accidents, records obtained as part of the recruitment process).
- Any other personal data which you choose to disclose to us during the course of your recruitment whether verbally or in written form.

In addition we will collect the following data for a successful applicant:

- Financial Information (Such as salary, pensions contributions, tax information, working hours, allowances, benefits, sick pay, bank details)
- Attendance and Health Information (such as number of absences and absence reasons, referrals for support to Occupational Health, or other agreed services, Individual Risk Assessments, Pre-Employment Health information, Occupational Health reports)
- Human Resources Information (such as meetings, emails and information in relation to sickness absence, reasonable adjustments, conduct, capability, grievance, maternity, paternity, flexible working, managing workforce change, managed staffing reductions, restructures and pay decisions)
- Vetting information (such as overseas checks, prohibition checks, relevant criminal records checks, risk assessments)

### **Why we collect and use this information**

We use the data:

- To meet our statutory requirements under the **Education Act**.
- To meet our statutory requirements to follow a **Safer Recruitment** process under **Keeping Children Safe in Education 2016**.
- To ensure we manage our performance and responsibilities in performing a public duty.
- To ensure we follow fair and proper process when recruiting.
- To ensure we meet contractual obligations.
- To support applicants to access work, training and promotion.
- To comply with the law regarding data sharing..

### **The lawful basis for use of this information**

On the 25th May 2018 the Data Protection Act 1998 will be replaced by the General Data Protection Regulation (GDPR). The conditions for processing information for employees, contactors and volunteers under GDPR will include us having a lawful reason to process the information, in our case these include:

- Legal obligation: the processing is necessary for us to comply with the law (not including contractual obligations)
- Public task: the processing is necessary for us to perform a task in the public interest or for our official functions, and the task or function has a clear basis in law
- Legitimate interests: the processing is necessary for our legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests. In our case this is necessary to ensure fair and effective recruitment of suitable employees. This is important to ensure that the Nursery continues to meet its objectives both in the short and long term; maintains its reputation; and continues to attract and retain high calibre employees
- Contract: the processing is necessary for a contract we have with the employee, or because they have asked us to take specific steps before entering into a contract
- Consent: the individual has given clear consent for us to process their personal data for a specific purpose.

### **Special Category Data**

Special Category data is personal data which the GDPR says is more sensitive and so needs more protection. In order for us to lawfully process special category data, we need to identify both a lawful basis (as above) and a separate condition for processing special category data. In our case we will use the following conditions:

- The data subject has given explicit consent to the processing of those personal data for one or more specified purposes, except where Union or Member State law provide that the prohibition referred to in paragraph 1 may not be lifted by the data subject
- Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the controller or of the data subject in the field of employment and social security and social protection law in so far as it is authorised by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject
- Processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity
- Processing is necessary for reasons of substantial public interest, on the basis of Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject
- Processing is necessary for the purposes of preventive or occupational medicine, for the assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social

care systems and services on the basis of Union or Member State law or pursuant to contract with a health professional and subject to the conditions and safeguards referred to in paragraph 3

- Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) based on Union or Member State Law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

### **Collecting information**

Whilst the majority of information applicants provide to us is mandatory, some of it is provided to us on a voluntary basis. In order to comply with the General Data Protection Regulation, we will inform applicants whether they are required to provide certain information to us or if they have a choice in this. Burmantofts Community Nursery collects and records personal data from a variety of sources, but mainly directly from the applicants. Applicants will usually provide this information directly to the Nursery through participation in the recruitment processes, emails or through verbal information which may be recorded electronically or manually.

We may also obtain some information from third parties: for example, references from a previous employer, medical reports from external professionals, information from tax authorities.

In some circumstances, data may be collected indirectly from monitoring devices or by other means (for example, visitor registers, monitoring systems, CCTV, telephone logs and email). In these circumstances, the data may be collected by the Nursery or a third party provider of the relevant service. This type of data is generally not accessed on a routine basis but access is possible. Access may occur, for instance, in situations where the Nursery is investigating possible breaches of Nursery Policies. More frequent access to such data may take place as part of our digital monitoring software.

Apart from personal data relating to applicants, they may also provide the Nursery with personal data of third parties, notably referees. Before applicants provide such third party personal data to the Nursery you must inform these third parties of any data which you intend to provide to the Nursery and why the Nursery will process this data.

### **Retention of Data**

We hold recruitment information for 6 months following the appointment of a successful candidate to the post. Information regarding the successful applicant will be transferred to their personnel file and held in line with our Privacy Notice for Employees.

Information relating to safeguarding allegations will be retained until the person's normal retirement age, or 10 years from the date of the allegation whichever is the longer.

Records relating to accident/injury at work will be retained for 12 years following the date of the incident.

Information will be securely destroyed once the retention period has elapsed.

### **Who we share information with**

We routinely share employees' information with:

- The Local Authority
- The Department for Education (DfE)
- Third party professional services i.e. Occupational Health, HR Providers, Payroll Services

Where we have a professional responsibility we will also share information with:

- Professional Bodies, including the Disclosure and Barring Service, The Teacher Regulation Agency and Examination Boards.

On written request we may also share information with:

- Benefits Agencies
- HMRC
- Police
- Social Care

At your request we may also share information with:

- Union Representatives
- Other Nurseries/Schools

We expect such third parties to process any data disclosed to them in accordance with applicable law, including with respect to data confidentiality and security.

### **Why we share information**

We do not share information about our employees, volunteers or contractors with anyone without consent unless the law and our policies allow us to do so.

We share employee data with the Department for Education (DfE) on a statutory basis as part of the annual census. This data sharing underpins educational policy and monitoring.

We are required to share information about our employees, volunteers and contractors with our local authority (LA) and the Department for Education (DfE) under the Education Act.

Where these third parties act as a "data processor" they carry out their tasks on our behalf and upon our instructions for the above mentioned purposes. In this case, personal data will only be disclosed to these parties to the extent necessary to provide the required services.

In addition, we may share personal data with national authorities in order to comply with a legal obligation to which we are subject. This is for example the case in the framework of imminent or pending legal proceedings or a statutory audit.

## **Employee rights relating to personal data**

Under data protection legislation, applicants have the right to request access to information about them that we hold. To make a request for your personal information please contact the Nursery directly.

We aim to ensure that all personal data is correct. Applicants also have a responsibility to notify us of changes in personal circumstances (for example, change of address or contact details) so that we can ensure that your data is up-to-date.

Applicants have the right to request correction of any inaccurate data or to request deletion of any irrelevant data we hold about them.

Where we have relied on consent to process particular information and applicants have provided us with consent to process data, they have the right to withdraw such consent at any time.

Applicants have the right to restrict our processing of personal data where:

- The subject contests the accuracy of the personal data until we have taken sufficient steps to correct or verify its accuracy
- Where the processing is unlawful but the subject does not want us to erase the data
- Where we no longer need the personal data for the purposes of the processing, but the subject requires them for the establishment, exercise or defence of legal claims

Where applicants have objected to processing justified on legitimate interest grounds, we will stop processing pending verification as to whether the Nursery has compelling legitimate grounds to continue processing.

Where personal data is subjected to restriction in this way we will only process it with your consent or for the establishment, exercise or defence of legal claims.

If you have a concern about the way we are collecting or using your personal data, we request that you raise your concern with us in the first instance by contacting the chair of the trustees. We also have a Data Protection Officer who is responsible for monitoring our compliance with data protection law. You may contact our Data Protection Officer via the chair of the trustees securely and confidentially at any time if you have any concerns about the processing of your personal data or any data protection issue. Alternatively, you can contact the Information Commissioner's Office at <https://ico.org.uk/concerns/>