X: Information and record keeping – Group and school-based providers

What do I need to know?

- Legal Framework
  - Data Protection Act 2018
  - Freedom of Information Act 2000
  - Disqualification under the Childcare Act 2006
  - Childcare Act 2006
  - Childcare (Disqualification) Regulations 2009
  - Safeguarding Vulnerable groups Act 2006
  - Disclosure and barring Service (DBS)

- EYFS statutory framework for group and school-based providers pages 43-45, paragraph 3.95-3.107
- What constitutes a 'record'.
- There is a requirement to register annually with the Information Commissioners Office (ICO).
- Confidentiality must be maintained, and records kept, transferred or destroyed in line with recommended retention periods.
- Parents, potentially, have access to **all** records about their child.

Information and record keeping (pages 69-71 of audit)	Things to consider and discuss:
Do you **ensure** you maintain records, obtain and share relevant and accurate information (with parents and, or carers, other professionals working with the child, the police, social services and Ofsted or the agency with which they are registered, as appropriate) to ensure the safe and efficient management of your setting and to help ensure the needs of all children are met?	• What records do you keep and in what formats? • How do you ensure all records are kept safe and secure? • What does relevant mean? • How do you ensure records are accurate? • When and how do you share information with parents and, or carers and statutory bodies? • When do you need parental permission to share information with health professionals, other settings, schools, etc.? • Do you know when it is appropriate and applicable to retain records? • Do you know what legal basis you use for your data processing?

Information and record keeping (pages 69-71 of audit)	Things to consider and discuss:
Are you aware of Guidance on sharing information with relevant services when there are safeguarding concerns, available via: Information sharing advice for safeguarding practitioners - GOV.UK (www.gov.uk)	• Have you accessed and read this guidance document? Are there any actions to implement from this? • Is the 'Information sharing advice for safeguarding practitioners' guidance on display or easily accessible for all staff? How do you know staff are aware of this document?
Do you **ensure** you enable a regular two-way flow of information with parents and, or carers, and between providers, if a child is attending more than one setting?	• How do you know your systems for sharing information are effective? • How often is information being shared? • What types of information is being shared and how is it acted upon? • Are all parents sharing information with you about their child? • How do you share information with other providers if the child is attending more than one setting?
If requested, do you make sure you incorporate parents' and, or carers' comments into children's records?	• What do you do with the information you receive from parents or other providers? • Are parents and, or carers aware that they can contribute to their child's records? • How do you enable parent sand, or carers to contribute?
Do you **ensure** your records easily accessible and available (these may be kept securely off the premises)?	• When might each set of records need to be accessible? • Who needs to be able to access them? Who does not? Who knows the passwords? • If you take and, or keep some records off site how do you ensure they are always secure, including in transit? • Are you aware of 'The seven golden rules to information sharing? How do you ensure all staff are aware of these golden rules
Do you **ensure** confidential information and records about staff and children are held securely and only accessible and available to those who have a right or professional need to see them?	• How do you protect the privacy of the children, parents and, or carers and give them access if they wish to see all records about their child? • Do you understand the difference between privacy and confidentiality? • Are you confident in knowing what data you can withhold should it be requested by a parent or carer, or third-party agency? • What information can be shared without parental consent? • How do you protect sensitive information about your setting and the children in your care from accidental damage and online criminals

Information and record keeping (pages 69-71 of audit)	Things to consider and discuss:
The National Cyber Security Centre (NCSC) has published helpful guidance on cyber security: Early Years practitioners: using cyber security to protect... - NCSC.GOV.UK	• Have you accessed and read this guidance document? Are there any actions to implement from this? • Is the document, 'Early Years practitioners: using cyber security to protect…' guidance on display or easily accessible for all staff? How do you know staff are aware of this document?
Do you **ensure** you are aware of your responsibilities under the Data Protection Legislation and where relevant the Freedom of Information Act 2000?	• How do you meet your responsibilities under the Data Protection Act 2018? • Have you appointed or contracted a Data Protection Officer for your setting? • Are you aware of the rights of an individual, to request information for themselves, or their child, under a Subject Access Request'? What procedures do you have to follow if you receive such a request?
This includes the Data Protection Act 2018 and General Data Protection Regulation 2018 see: Guide to the General Data Protection Regulation - GOV.UK (www.gov.uk)	• Have you accessed and read this guidance document? Are there any actions to implement from this? • Is the 'Guide to the General Data protection Regulation' guidance on display or easily accessible for all staff? How do you know staff are aware of this document?
Do you **ensure** that all staff understand the need to protect the privacy of the children in their care as well as the legal requirements that exist to ensure that information relating to the child is handled in a way that ensures confidentiality?	• Have all staff members received training in Data protection? • How do you ensure that electronic records are reviewed and processed in the same way as hard copy records? • How do ensure that data held on third party platforms and apps is fit for purpose
Do you **ensure** parents and, or carers are given access to all records about their child, provided that no relevant exemptions apply to their disclosure under Data Protection Act?	• What policies and procedures do you have in place regarding access to all records for parents and, or carers? How do you make parents aware of this? • What are the 'relevant exemptions'?
Are you aware The Data Protection Act 2018 (DPA) gives parents and carers the right to access information about their child that a provider holds?	• How do you know what the specific exemptions under which certain personal information may, under specific circumstances, be withheld from release as set out in the DPA? How do these exemptions apply to your provision?

Information and record keeping (pages 69-71 of audit)	Things to consider and discuss:
Are you aware however, the DPA also sets out specific exemptions under which certain personal information may, under specific circumstances, be withheld from release? For example, a relevant professional will need to give careful consideration as to whether the disclosure of certain information about a child could cause harm either to the child or any other individual. *Further guidance of how data protection laws operate can be found on the website of the Information Commissioner's Office at:* Guide to the UK General Data Protection Regulation (UK GDPR) | ICO	• Have you accessed and read this guidance document? Are there any actions to implement from this? • Is the 'Guide to the UK General Data Protection Regulations' guidance on display or easily accessible for all staff? How do you know staff are aware of this document
Do you **ensure** records relating to individual children retained for a reasonable period of time after they have left the provision? *Are you aware individual providers should determine how long to retain records relating to individual children?*	• Which records do you retain? • How long do you keep them? • How do you keep track of when a record needs to be destroyed? • Does this period meet the requirements of your insurance company, the LA requirements for funded children, SEN children or child in care, the Childcare Register and the requirements of any other relevant body or legislation? • How do you dispose of records safely and securely? • What records do you pass on to a child's next Setting and, or School? How do you ensure the method of transfer is safe? How do you confirm that it has been received?

Useful links and further help:

Data Protection Act information
Information Commissioners office
SEND code of practice
DCC Schools Retention Guidelines
For advice and support regarding Data Protection and GSPR contact: GDPRfor.EarlyYears@derbyshire.gov.uk

Information about the child (page 73 of audit)	Things to consider and discuss:
Do you **ensure** you record the following information for each child in your care: • full name? • date of birth? • name and address of every parent and, or carer who is known to the provider? • information about any other person who has parental responsibility for the child? • which parent(s) and, or carer(s) the child normally lives with? • emergency contact details for parents and, or carers?	• How do you ensure all information is accurate? e.g. Do you record that a child's birth certificate has been seen and checked? • How is information kept up to date? e.g. Emergency contact details for each child. • How do you collect information on who has parental responsibility for a child? Where is this information recorded? Who needs to can access this information? • How do you ensure both staff and parents and, or carers know and understand what the legal term 'parental responsibility' means? • How would you manage the situation if you had been informed that a person did not have legal access and, or parental responsibility for a child, but they arrive at your Setting to collect the child? • How do you collect information on who the child normally lives with? Where is this information recorded? Can whoever needs to know this information access it? • How do you ensure emergency contact details are always accessible and available for staff who might need to access them, e.g. on outings? How do you keep the information safe when taking it off-site? • How do you collect information about whether a child is a 'child in care'? Do you know which local authority the child in care is registered with? Have you obtained the name of the social worker for the child? How do you monitor child attendance? What do you do if you have concerns about a child attendance? Have you contacted and informed the Virtual School? Who has parental responsibility? • How do you ensure you and all staff meet Data Protection and GDPR legislation? • How do you know what information can you share with others? • Do you know when it is appropriate and applicable to retain records? • Does this retention period meet the requirements of your insurance company, the LA requirements for funded children, SEN children or children in care or the requirements of any other relevant body or legislation? • How do you dispose of records safely and securely? • When do you need parental permission to share information with health professionals, other settings, schools, etc.? **CONSIDERATIONS re. OTHER CHILD-RELATED RECORDS:** • Do you need parental permission to share information about a child's learning and development? What information can be shared without parental consent? • How do you keep accurate records of all children's attendance at your provision? How often do you monitor attendance? What will you do when you have concerns?

Information about the child (page 73 of audit)	Things to consider and discuss:
Do you **ensure** you record the following information for each child in your care: • full name? • date of birth? • name and address of every parent and, or carer who is known to the provider? • information about any other person who has parental responsibility for the child? • which parent(s) and, or carer(s) the child normally lives with? emergency contact details for parents and, or carers?	***Continued from previous table:*** • How do you collect information about any allergies, health issues, SEND concerns or diagnosis, other agencies and professionals associated and, or with the child or family? Where is this information recorded? How do you ensure staff who need to know this information can access it? How often is this information updated? • How do staff know what to include in a child's child protection file? Do you have a central child protection file for each child which is stored securely? How to you transfer a child's child protection file to another provider? Do you obtain a confirmation receipt stating the files have been transferred?
Do you **make sure,** where possible, you hold more than two emergency contact numbers for each child?	• Do you need to amend your data collection paperwork to ensure that you obtain more than two emergency contact numbers for each child? • What would happen if you were unable to hold more than two emergency contact numbers and during an emergency you were unable to contact a parent and, or carer? • When might it not be possible to have more than two contact numbers? • How do you ensure you have the most up to date contact information for parents?

Useful links and further help:

Information sharing advice for safeguarding practitioners
Early Years practitioners: using cyber security to protect
Guide to the General Data Protection Regulation
Guide to the UK General Data Protection Regulation (UK GDPR) | ICO
Data Protection Act information
Information Commissioners office
SEND code of practice
Derby and Derbyshire Safeguarding Children Partnership
Working together to safeguard children
Keeping children safe in education
DCC Schools Retention Guidelines
For advice and support regarding Data Protection and GSPR contact: GDPRfor.EarlyYears@derbyshire.gov.uk

Information for parents and carers (page 72 of audit)	Things to consider and discuss:
Do you **ensure** you make the following information available to parents and, or carers: • how the EYFS is being delivered in the setting and how parents and, or carers can access more information? • the range and type of activities and experiences provided for children, the daily routines of the setting, and how parents and carers can share learning at home? • how the setting supports children with special educational needs and disabilities? • food and drinks provided for children? • details of your policies & procedures (all providers must make copies available on request)? • the procedure to be followed in the event of a parents and, or carer failing to collect a child at the appointed time, or in the event of a child going missing at, or away from, the setting? • How staffing in the setting is organised? • The name of their child's key person and their role? • A telephone number for parents and, or carers to contact in an emergency?	• How and how often do you evaluate the range of information included in your welcome pack? How do you consult with parents about additional information they may find useful? • How and what are parent and, or carers preferred means for being contacted and how do you acquire and store the contact details for each parent and, or carer? • Are there any barriers to communicating with parents and, or carers and how do you plan to resolve this? • How do you promote a two way flow of information between you and parents and, or carers? How do you know that communication with parents and, or carer is effective? • How, what and where is information shared with parents and, or carers about the EYFS and how is it being delivered throughout your provision? • Is relevant information, such as safeguarding flowcharts, or policies such as the complaints policy, displayed including how to contact Ofsted? • How and what information is shared with parents and, or carers about the range and type of activities and experiences provided for the children and daily routines? • How and what information is shared with parents and, or carers regarding how they can support their child's learning at home? How are these methods effective in engaging parents and, or carers? How do you know? • How and what information is shared about children with SEN and disabilities? How are these methods effective in engaging and supporting parents and, or carers? How do you know? • Do you know where you can signpost parents for further information, help and, or support relating to a child with SEND? Where would you send parents and, or carers? • Have you obtained parental consent for information sharing with other professionals, and what information will be shared? • How and what information shared regularly with parents and, or carers about food and drinks provided for children? How do you involve parents and, or carers and children in food and drink choices and planning? • How do you share your policies and procedures with parents and, or carers?

Information for parents and carers (page 72 of audit)	Things to consider and discuss:
Do you **ensure** you make the following information available to parents and, or carers: • how the EYFS is being delivered in the setting and how parents and, or carers can access more information? • the range and type of activities and experiences provided for children, the daily routines of the setting, and how parents and carers can share learning at home? • how the setting supports children with special educational needs and disabilities? • food and drinks provided for children? • details of your policies & procedures (all providers must make copies available on request)? • the procedure to be followed in the event of a parents and, or carer failing to collect a child at the appointed time, or in the event of a child going missing at, or away from, the setting? • How staffing in the setting is organised? • The name of their child's key person and their role? • A telephone number for parents and, or carers to contact in an emergency?	***Continued from previous table:*** • How do you share your procedures including safeguarding and child protection, failing to collect a child, if a child goes missing at or away from the setting and your complaints policy and procedures? • How do you ensure both staff and parents and, or carers know and understand what the legal term 'parental responsibility' means? • How do you ensure that all staff are aware of who has parental responsibility for each child? • How do you collect information about whether a child is a child in care? Do you know which local authority the child in care is registered with? Have you obtained the name of the social worker for the child? How do you monitor child attendance? What to do if you have concerns about a child attendance? Have you contacted and informed this with Virtual School? • How and what information do you share with parents and, or carers about staffing in the setting? How often do you review this information and share changes with parents and, or carers? • How and what information do you share with parents and, or carers about the name of their child's key person and their role? • Does information provided to parents include a telephone number for parents and, or carers to contact in an emergency? • How do you ensure you meet Data Protection and GDPR legislation? • When and how do you share information with parents and, or carers and statutory bodies? How do you ensure staff know this information to ensure they are following Data Protection and GDPR legislation? • When do you need parental permission to share information with health professionals, other settings, schools, etc.? What information can be shared without parental consent?

Useful links and further help:

Information sharing advice for safeguarding practitioners
Early Years practitioners: using cyber security to protect
Guide to the General Data Protection Regulation
Guide to the UK General Data Protection Regulation (UK GDPR) | ICO
Data Protection Act information
Information Commissioners office
Derby and Derbyshire Safeguarding Children Partnership
Working together to safeguard children
Keeping children safe in education
Derbyshire Local Offer
Derbyshire Information, Advice and Support Service for SEND
SEND code of practice: 0 to 25 years - GOV.UK (www.gov.uk)
SEND: guide for parents and carers - GOV.UK (www.gov.uk)
What to Expect When? - A Parent's Guide
Inspecting registered childcare providers: information for parents
Ofsted's role in regulating childcare: poster for parents
Homepage | Food Standards Agency
Nutrition in nursery schools
First steps nutrition good food choices and portion sizes for 1 – 4 year olds
NHS Eatwell Guide
Change4Life
Childhood obesity: applying All Our Health
Healthy diet recommendations - British Nutrition Foundation
Healthy eating and safe food preparation | From pregnancy to children aged 5
Health Protection in schools and other childcare facilities
Food Standards Agency
Safer food, better business for caterers
Safer food better business for childminders
Allergen guidance for food businesses
DCC Schools Retention Guidelines

For advice and support regarding Data Protection and GSPR contact: GDPRfor.EarlyYears@derbyshire.gov.uk

Complaints (page 74 of audit)	Things to consider and discuss:
Do you **ensure** you have and put in place a written procedure for dealing with concerns and complaints from parents and, or carers?	• What do you and your staff consider to be a concern or a complaint? • What is your complaints procedure? Is this a written procedure?
Do you **ensure** you keep a written record of any complaints, and their outcome?	• How do you make parents and, or carers aware of how to make a complaint and to whom? • How are verbal complaints recorded and acted upon? Do all staff know what to do if someone makes a verbal complaint? Can your staff explain this procedure? • Do you have a whistle blowing policy and do staff know what this is about? How is this information shared? • How do you ensure a confidential recording system is in place for complaints made? • In what situation would you contact your insurance company to notify them or request advice following a complaint? • What is your staff code of conduct and disciplinary procedures? Are they clear and unambiguous? How and when are these shared with staff?
Do you **ensure** you investigate written complaints relating to your fulfilment of the EYFS requirements and notify complainants of the outcome of the investigation within 28 days of having received the complaint?	• Who will investigate any complaints? • How do you monitor the progress of any investigation to ensure the deadline of 28 days is adhered to? • How do you notify the complainant of the outcome? What will you do if they are not happy with the outcome of your investigation? • How do you review practice as a result of complaints? What changes have you put into place following the review of a complaint?
Do you **ensure** the record of complaints are made available to Ofsted or the agency with which a provider of CoDP is registered request?	• How are complaints securely stored to enable records to be shared with Ofsted or the agency with which a provider of CoDP is registered request? • Who has access to the complaints records? What if that person is not available? • Are you aware of how long you must retain information relating to complaints? • How do you ensure you meet Data Protection and GDPR legislation?
Do you **ensure** you make available to parents and, or carers details about how to contact Ofsted or the agency with which a provider of CoDP is registered as appropriate, if they believe you are not meeting the EYFS requirements?	• How do you make parents and, or carers aware of how and when to contact Ofsted or the relevant agency?

Inspections and quality assurance visits (page 75 of audit)	Things to consider and discuss:
Do you **ensure** if you become aware that you are to be inspected by Ofsted that you notify parents and, or carers?	• How do you notify parents and, or carers if an Ofsted inspection or quality assurance visit is about to take place?
Do you **ensure** after an inspection by Ofsted or a quality, you supply a copy of the report to parents and, or carers of children attending on a regular basis?	• How do you notify and supply a copy of the report to parents and, or carers of the outcomes following an Ofsted inspection or quality assurance visit?

Useful links and further help:

Information sharing advice for safeguarding practitioners
Early Years practitioners: using cyber security to protect
Guide to the UK General Data Protection Regulation (UK GDPR) | ICO
Data Protection Act information
Information Commissioners office
Derby and Derbyshire Safeguarding Children Partnership
Working together to safeguard children
Keeping children safe in education
Guidance for safer working practice for those working with children and young people in education
Inspecting registered childcare providers: information for parents
Complaints procedure - Ofsted
Complain about a school: State schools
Ofsted's role in regulating childcare: poster for parents

Information about the provider (page 75 of audit)	Things to consider and discuss:
Do you **ensure** you hold the following documentation: • name, home address and telephone number of the provider and any other person living or employed on the premises? • name, home address and telephone number of anyone else who will regularly be in unsupervised contact with the children attending the early years provision? • a daily record of the names of the children being cared for on the premises, their hours of attendance and the names of each child's key person? • your certificate of registration (which must be displayed at the setting and shown to parents and, or carers on request)?	• Who is the 'Provider'? • How and what information do you record regarding the provider and any other person living or employed on the premises? How and where is this information stored securely? • Do Ofsted have up to date contact information for your setting, e.g. email address? • How and what information do you record of anyone else who will regularly be in unsupervised contact with children? How and where is this information stored securely? • What systems are in place for staff to notify the setting of any changes to personal details? • How and what information do you record regarding the children being cared for on the premises, including their hours of arrival and departure? How and where is this information stored securely? • Are absences of Local Authority funded children or children in care monitored and reported to the LA? Who would you inform? • Do all EYFS children have a key worker and is this clearly visible on the daily record? • Which certificates and, or qualifications do you legally have to display? • Where do you display your certificate of registration and insurance certificate, so it is available for parents and, or carers to see? • Where do you display your staff paediatric first aid (PFA) certificates or a list of staff who have a current PFA certificate so parents and, or carers can see? • Where do you display food hygiene certificates so parents and, or carers can see them? • Do you ensure that information is stored securely in line with Data Protection Act 2018 and General Data Protection Regulations GDPR? How long do you retain it for? How will you dispose of it safely? • Are you registered with the Information Commissioner's Office?

Useful links and further help:

Disclosure & barring Service
Information Commissioners Office (ICO)
Early years qualification checker
Childminders and childcare providers register with Ofsted guidance
Data Protection Act information

Information Commissioners office
DCC Schools Retention Guidelines

For advice and support regarding Data Protection and GSPR contact:
GDPRfor.EarlyYears@derbyshire.gov.uk

Information and record keeping - Notifiable changes to Ofsted (page 76-77 of audit)	Things to consider and discuss:
Do you **ensure** you notify Ofsted (but see paragraph 3.107) of: • Any change in the address of the premises (and seek approval to operate from those premises where appropriate)? • Any change to the premises which may affect the space available to children and the quality of childcare available to them? • Any change in the name or address of the provider, or the provider's other contact information? • Any change to the persons aged 16 years or older living or working on any domestic premises from which childcare is provided? • Any change to the person who is managing the early years provision? • Any proposal to change the hours during which childcare is to be provided which will entail the provision of overnight care. • Any significant event which is likely to affect the suitability of the early years provider to look after children. • Any significant event which is likely to affect the suitability of any person who cares for/is in regular contact with children on the premises. • Where the early years provision is provided by a company, any change in the name or registered number of the company. • Where the early years provision is provided by a charity, any change in the name or registration number of the charity. • Where the childcare is provided by a partnership, body corporate or unincorporated association, any change to the "nominated individual". • Where the childcare is provided by a partnership, body corporate or unincorporated association whose sole or main purpose is the provision of childcare, any change to the individuals who are partners in, or a director, secretary or other officer or members of its governing body.	• Who is the 'Provider'? (This may be a group of people) • If applicable, who are your 'Registered Individuals'? • Who is your 'Nominated Individual'? (May not be applicable if you are a 'Sole Owner') • Who is your Manager? (Group Care providers) • Who is able to inform Ofsted of changes? • What is the current way to contact Ofsted in order to notify them of changes? • How do you ensure that Ofsted always have up to date information regarding your 'Nominated Individual' in order that other changes may be notified to Ofsted. If the Nominated person leaves your organisation do you ensure Ofsted is informed *prior* to them leaving? • Do you keep an evidence trail to prove that you have informed Ofsted of the changes and the date you did so? How long will you retain these records? • Would you inform Ofsted of temporary changes to the hours you are open? E.g. temporary emergency closures; INSET days during normal opening hours • If you provide overnight care are you aware of the additional requirements to meet children's welfare and safeguarding needs? How do you ensure you inform Ofsted that you are providing overnight care? • What would Ofsted consider to be a 'significant event'? • Are you aware that a person is not considered to be working on the premises if none of their work is done in the part of the premises in which children are cared for, or if they do not work on the premises at times when children are there?
Do you **ensure** that when you are required to notify Ofsted about a change of person except for managers (as specified above), you give Ofsted the new person's name, any former names or aliases, date of birth, and home address?	• What robust systems are in place within your provision to update the nominated person so that they can inform Ofsted of any of these changes within the required time frame? • Do your systems and practices support you to make notifications in advance?
Do you **ensure** if there is a change of manager, you notify Ofsted that a new manager has been appointed?	• Are you aware of how to contact Ofsted to make these changes?

Information and record keeping - Notifiable changes to Ofsted (page 76-77 of audit)	Things to consider and discuss:
Do you **ensure** where it is reasonably practicable to do so, notification is made in advance? In other cases, do you **ensure** notification is made as soon as is reasonably practicable, but always within 14 days? **Are you aware that a registered provider, who, without reasonable excuse, fails to comply with this requirement, commits an offence?**	• Are you familiar with the relevant time scales for notifying Ofsted of changes? How will you ensure these time scales are met? • Do you know that where providers of CoDP are registered with a CMA the above notifications should be given to their CMA, not Ofsted.
Please note that where providers of CoDP are registered with a CMA the above notifications should be given to their CMA, not Ofsted.	• If you are a provider of CoDP registered with a CMA, I should notify the CMA rather than Ofsted. • Do you know what your registration type is? • How can you check this?

Useful links and further help:

Significant events to notify Ofsted about
Report a serious childcare incident
Reporting children's accidents and injuries

Report changes to registered people in your nursery or other daycare (EY3) - GOV.UK (www.gov.uk)
Apply to join a nursery or other day care organisation (EY2)
Early years and childcare services: EY3 changes to individuals - GOV.UK (www.gov.uk)
Daycare roles that must register with Ofsted e.g. Registered person, registered individual, nominated individual
Early years compliance handbook OFSTED
Derbyshire SchoolsNet - Early Years Team
Derbyshire Early Years Service - Eventbrite
Email: CS.EYS@derbyshire.gov.uk