

# GDPR - Data Protection Policy



## Data Protection Policy

### 1 Aims and Definitions

Serenity Sensory Music is committed to ensuring that all personal data collected is processed in accordance with all relevant data protection laws including the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA 2018).

### 2 Scope

This policy applies to Serenity Sensory Music staff member - Laura Seymour.

This policy applies to all personal data, regardless of whether it is in paper or electronic format.

### 3 Distribution

This policy is available on the Serenity Sensory Music website and is available in hard copy. In order to comply with the fair processing requirements of the GDPR, Serenity Sensory Music informs parents / carers of all participants of the data it collects, processes and holds on the participants, the purposes for which the data is held and any third parties to whom it may be passed.

This information forms part of the Privacy Notice which is posted on Serenity Sensory Music's website. A paper copy of the Privacy Notice is available on request from the Serenity Sensory Music. Privacy Notices are reviewed at least annually, and participants will be alerted to any significant changes.

### 4 Definitions

Personal data - Any combination of data items which could identify a living person and provide specific information about them, their families or circumstances. The term covers both facts and opinions about an individual. Serenity Sensory Music may process a wide range of personal data of participants as part of its operation. This personal data may include (but is not limited to):

- name/s
- Address
- iP address
- email address
- phone number
- billing & bank details

Special category personal data - Personal data which is more sensitive and so needs more protection, including information about a living individual's:

- Health – physical or mental

Our Record of Processing Activities (RoPA) details the types of information we hold and the grounds upon which we process it, as does our Privacy Notice which can be found on the Serenity Sensory Music website.

Processing - Anything done to personal data, such as collecting, recording, organising, structuring, storing, adapting, altering, retrieving, using, disseminating, erasing or destroying. Processing can be automated or manual.

Data subject - The identified or identifiable (living) individual whose personal data is held or processed.

Data controller - A person or organisation that determines the purposes and the means of processing of personal data.

Data processor - A person or other body, other than an employee of the data controller, who processes personal data on behalf of the data controller.

Personal data breach - A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data.

## **5 Roles and Responsibilities**

This policy applies to Serenity Sensory Music staff member - Laura Seymour

Responsible for:

- Familiarising themselves with and complying with this policy and acceptable use policies.
- The learning culture within Serenity Sensory Music seeks the avoidance of a blame culture and is key to allowing individuals the confidence to report genuine mistakes. However, staff should be aware, that a deliberate or reckless disregard of this policy could result in disciplinary action being taken;
- Taking care to ensure the safekeeping of personal data, minimising the risk of its loss or misuse at all times. Serenity Sensory Music staff should adopt the approach that they should treat the personal data of others with the same care with which they would treat their own;
- Using personal data only on secure password protected computers and other devices, ensuring that they are properly “logged-off” at the end of any session in which they are using personal data;
- Storing, transporting and transferring data using encryption and secure password protected devices;
- Deleting data in line with this policy and the Records Retention Policy
- Informing Serenity Sensory Music of any changes to their personal data, such as a change of address

## **6 Subject Access Requests and Other Rights of Individuals**

In all aspects of its work, Serenity Sensory Music will ensure that the rights of the data subject are protected by all practicable measures associated with the conduct of Serenity Sensory Music work.

Subject to exceptions, the rights of the data subject as defined in law are;

a) The Right to be informed

Serenity Sensory Music advises individuals how it will use their data through the use of transparent Privacy Notices and other documentation such as consent forms where appropriate.

b) The Right of access

An individual when making a subject access request (SAR) is entitled to the following;

- i. confirmation that their data is being processed;
- ii. access to their personal data;
- iii. other supplementary information – this largely corresponds to the information that should be provided in a Privacy Notice.

Serenity Sensory Music must respond to such a request within one calendar month unless the request is complex, in which case it may be extended by a further 2 calendar months .

Please refer to Appendix 2 for further details as to how to manage a subject access request.

c) The Right to rectification

Individuals have the right to ask to rectify information that they think is inaccurate or incomplete. Serenity Sensory Music has a duty to investigate any such claims and rectify the information where appropriate within one calendar month, unless an extension of up to a further 2 calendar months can be justified.

d) The Right to erasure

The right for an individual to request that their data is erased is not absolute. It applies where:

- the information was given voluntarily, consent is now withdrawn and no other legal basis for retaining the information applies;
- the information is no longer required by Serenity Sensory Music
- a legal obligation to erase the data applies;
- the data was collected from a child for an online service;
- Serenity Sensory Music has processed the data on the basis that it is in their legitimate business interests to do so, and having conducted a legitimate interests test, it concludes that the rights of the individual to have the data erased outweigh those of Serenity Sensory Music to continue to process it. Serenity Sensory Music will consider such requests as soon as possible and within one month, unless it is necessary to extend the timeframe for a further two months on the basis of the complexity of the request or a number of requests have been received from the individual.

e) The Right to restrict processing

An individual may ask Serenity Sensory Music to temporarily limit the use of their data when it is considering:

- a challenge made to the accuracy of their data, or
- an objection to the use of their data.

In addition, Serenity Sensory Music may be asked to limit the use of data rather than delete it:

- If the individual does not want Serenity Sensory Music to delete the data but does not wish to it continue to use it;
- In the event that the data was processed without a lawful basis;
- To create, exercise or defend legal claims.

#### f) The Right to data portability

An individual can make a request in relation to data which is held electronically for it to be transferred to another organisation or to themselves where they have provided it either directly or through monitoring activities e.g. apps. Serenity Sensory Music only has to provide the information where electronically feasible.

#### g) The Right to object

Individuals have a right to object in relation to the processing of data for

- a task carried out in the public interest except where personal data is processed for historical research or statistical purposes;
- a task carried out in its legitimate interests
- scientific or historical research, or statistical purposes, or
- direct marketing. Only the right to direct marketing is absolute, other objections will be assessed in accordance with data protection principles.

Serenity Sensory Music will advise of any decision to refuse such a request within one month, together with reasons and details of how to complain and seek redress.

#### h) Rights related to automated decision making

This does not apply as the School does not employ automated decision making processes.

### **7 Data Protection Principles**

The GDPR is based on 7 key data protection principles that Serenity Sensory Music complies with.

The principles say that personal data must be:

- Processed lawfully, fairly and in a transparent manner – Serenity Sensory Music will explain to individuals why Serenity Sensory Music needs their data and why it is processing it – for example on consent forms (where consent is used as the basis for processing), and in its Privacy Notice(s).

Serenity Sensory Music reviews their documentation and the basis for processing data on a regular basis.

- Collected for specified, explicit and legitimate purposes – Serenity Sensory Music explains these reasons to the individuals concerned when it first collects their data.

If Serenity Sensory Music wishes to use personal data for reasons other than those given when the data was first obtained, it will inform the individuals concerned before doing so, and will seek consent where necessary and appropriate unless the new purpose is compatible with that in respect of which consent was given, or there is another lawful basis for sharing the information, Serenity Sensory Music will document the basis for processing.

- Adequate, relevant and limited to what is necessary to fulfil the purposes for which it is processed - Serenity Sensory Music must only process the minimum amount of personal data that is necessary in order to undertake its work.
- Accurate and, where necessary, kept up to date – Serenity Sensory Music will check the details of those on its databases at appropriate intervals and maintain the databases. It will consider and respond to requests for inaccurate data to be rectified in accordance with the Data Protection Act 2018.
- Kept for no longer than is necessary for the purposes for which it is processed – Serenity Sensory Music review what data we hold at appropriate intervals, for example upon the annual review of the Record of Processing Activities (or sooner if needed). When Serenity Sensory Music no longer needs the personal data it holds, it will ensure that it is deleted or anonymised in accordance with the Records Retention Policy. We only keep personal data, including special category data, in an identifiable form for as long as is necessary for the purposes for which it was collected, or where there is a legal obligation to do so.
- Processed in a way that ensures it is appropriately secure – Serenity Sensory Music implements appropriate technical measures to ensure the security of data and systems for staff and all users.
- Serenity Sensory Music adopts a risk- based approach to taking data offsite. Unless absolutely necessary, hard copies of special category personal data will not be removed from Serenity Sensory Music premises.
- Any decision to remove the information must be based on the business need of the organisation or in the best interests of the individual, rather than for the convenience of the individual member of staff. It is always preferable for any special category personal data to be accessed via an appropriately encrypted means rather than via hard copy, when off-site.
- If there is no reasonable alternative to removing hard copies from Serenity Sensory Music’s site, the following procedure will apply:
  - i. Special Category Data (e.g. SEND, Safeguarding, Health data) must be kept on the staff member’s person at all times.
  - ii. Special category data must be returned to the Serenity Sensory Music’s premises at the end of the working day,
  - iii. Only those who need to access the data concerned will be granted permission and access to it.
- Accountability – Serenity Sensory Music comply with their obligations under data protection laws including the GDPR and can demonstrate this via the measures set out in this policy,
- Policies related to the handling of data and associated documentation will be regularly reviewed and updated in accordance with new guidance, legislation and practice.
- Where any breaches of personal data have occurred the reasons for this will be reviewed and changes made to practice and procedure as appropriate;

## **8 Processing Personal Data**

In order to ensure that Serenity Sensory Music's processing of personal data is lawful; it will always identify one of the following six grounds for processing before starting the processing:

- The data needs to be processed so that Serenity Sensory Music can fulfil a contract with the individual, or the individual has asked Serenity Sensory Music to take specific steps before entering into a contract;
- The data needs to be processed so that Serenity Sensory Music can comply with a legal obligation;
- The data needs to be processed to ensure the vital interests of the individual e.g. to protect someone's life;
- The data needs to be processed so that Serenity Sensory Music can perform a task in the public interest, and carry out its official functions ;
- The data needs to be processed for the legitimate interests of Serenity Sensory Music or a third party (where necessary, balancing the rights of freedoms of the individual).

However, where Serenity Sensory Music can use the public task basis for processing, it will do so rather than rely on legitimate interests as the basis for processing.

- The participant (or their parent/carer when appropriate in the case of a child) has freely given clear consent. In the case of special categories of personal data, this must be explicit consent.
- Serenity Sensory Music will seek consent to process data from the participant or parent depending on their age and capacity to understand what is being asked for. In addition to the legal basis to process personal data, special categories of personal data also require an additional condition for processing under Article 9 of the GDPR.

The grounds that we may rely on include:

a) The individual has given explicit consent to the processing of those special categories of personal data for one or more specified purposes;

b) Processing is necessary for the purposes of carrying out the obligations and exercising specific rights under employment, health and social security and social protection law and research; a full list can be found in Schedule 1 Part 1 of the Data Protection Act 2018. Health or social care purposes includes the following purposes:

- i. Preventative or occupational medicine
- ii. The assessment of the working capacity of the employee

c) Processing is necessary to protect the vital interests of the individual or of another natural person where the individual is physically or legally incapable of giving consent;

d) Processing relates to personal data which are manifestly made public by the individual;

e) Processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity;

f) Processing is necessary for reasons of substantial public interest but must be clearly demonstrated and assessed as part of the public interest test and evidenced throughout the

decision-making process. These grounds include the following (the full list of defined purposes may be found in Schedule 1 Part 2 of the Data Protection Act 2018):

- Statutory and government purposes
- Safeguarding of children or individuals at risk
- Legal claims
- Equality of opportunity or treatment
- Counselling
- Occupational pensions

g) 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;

h) Processing is necessary for reasons of public interest in the area of public health;

i) Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes.

Deciding upon the correct legal basis for processing data can be difficult and more than one ground may be applicable. We must also comply with Schedule 1 of the Data Protection Act (as well as Articles 6 and Article 9), when we are processing data where the conditions relate to employment, health and research or substantial public interest as follows: Legal basis for processing criminal offence data Criminal offence data includes information about criminal allegations, criminal offences, criminal proceedings and criminal convictions. We do not maintain a register of criminal convictions. When processing this type of data, we are most likely to rely on one of the following bases:

- The processing is necessary for the purposes of performing or exercising obligations or rights which are imposed or conferred by law on the controller or the individual in connection with employment, social security or social protection; or
- Consent – where freely given. The School acknowledges because of the potential for the imbalance of power that it may be difficult for consent to be deemed valid and will only rely on this where no other ground applies.

## **9 Sharing Personal Data**

Please refer to Serenity Sensory Music's Privacy Notices.

Serenity Sensory Music will only share personal data under limited circumstances, when there is a lawful basis to do so and where identified in the Privacy Notice(s). The following principles apply:

- Serenity Sensory Music will share data if there is an issue with a participant or parent/carer that puts the safety of staff at risk;
- Serenity Sensory Music will share data where there is a need to liaise with other agencies. It will seek consent as necessary and appropriate before doing so. However, where child protection and safeguarding concerns apply, it will apply the "Seven golden rules of

information sharing” which provide that in limited circumstances data may be shared with external agencies without the knowledge or consent of the parent or child;

- Serenity Sensory Music’s suppliers and contractors need data to provide services – for example, IT companies.
- When sharing data Serenity Sensory Music will:
  - Only appoint suppliers or contractors which can provide sufficient guarantees that they comply with data protection law;
  - Establish a data processing contract with the supplier or contractor, either in the contract or as a standalone agreement, to ensure the fair and lawful processing of any personal data it shares where there is regular sharing ;
  - Only share data that the supplier or contractor needs to carry out their service, and information necessary to keep them safe while working with Serenity Sensory Music.
- Serenity Sensory Music may also share personal data with law enforcement and government bodies where there is a lawful requirement / basis for them to do so, including:
  - For the prevention or detection of crime and/or fraud;
  - For the apprehension or prosecution of offenders;
  - For the assessment or collection of tax owed to HMRC;
  - In connection with legal proceedings;
  - For research and statistical purposes, as long as personal data is sufficiently anonymised or consent has been provided.
- Serenity Sensory Music may also share personal data with emergency services and local authorities to help them to respond to an emergency situation that affects pupils or staff.

## **10 Data Protection by Design and Default**

Serenity Sensory Music has a legal obligation to integrate appropriate technical and organisational measures into all of its processing activities, and to consider this aspect before embarking on any new type of processing activity. It is a statutory requirement that any activity involving a high risk to the data protection rights of the individual when processing personal data be assessed by the Data Protection Impact Assessment. Prior to the assumption of any such activity i-west must be consulted and an initial screening be conducted assessing risk.

## **11 Personal data breaches or near misses**

A personal data breach is defined as “a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed in connection with the provision of a public electronic communications service.” It may be deliberate or accidental. Wherever it is believed that a security incident has occurred or a ‘near miss’ has occurred, the staff member must inform Serenity Sensory Music.

This will allow an assessment to be made within 72 hours as is legally required, and / or those data subjects affected by the breach. The learning culture within the organisation seeks the avoidance of a blame culture and is key to allowing individuals the confidence to report genuine mistakes.

## **12 Destruction of records**

Serenity Sensory Music applies the Records Retention Policy, and will permanently destroy both paper and electronic records securely in accordance with these timeframes. We will securely destroy hard copies and will ensure that any third party who is employed to perform this function will have the necessary accreditations and safeguards. If we delete electronic records and our intention is to put them beyond use, although it may be technically possible to retrieve them, we follow the Information Commissioner's Code of Practice on deleting data and this information will not be made available on receipt of a subject access request.

### **13 Training**

To meet our obligations under Data Protection legislation, Serenity Sensory Music ensures that all staff receive an appropriate level of data protection training as part of their induction

Those who have a need for additional training will be provided with it, for example relating to use of systems or as appropriate.

Data protection also forms part of continuing professional development, and updates will be provided where changes to legislation, guidance or Serenity Sensory Music's processes make it necessary.

### **14 Monitoring Arrangements**

Serenity Sensory Music is responsible for the day to day implementation of the policy and for making the data protection officer aware of relevant issues which may affect Serenity Sensory Music's ability to comply with this policy and the legislation.

This policy will be reviewed annually, unless an incident or change to regulations dictates a sooner review.

### **15 Complaints**

Serenity Sensory Music is always seeking to implement best practice and strive for the highest standards. Serenity Sensory Music operates an "open door" policy to discuss any concerns about the implementation of this policy or related issues.

### **16 Legislation and Guidance**

This policy takes into account the following:

- The General Data Protection Regulation (GDPR) 2018
- The Data Protection Act (DPA) 2018.
- The Protection of Freedoms Act 2012
- Guidance published by the Information Commissioner's Office
- Information Sharing (Advice for Practitioners) DfE July 2018