



BERKHAMSTED

— DAY NURSERY —

Terms and conditions (August 2022)

1 Introduction

1.1 **Terms and conditions:** These terms and conditions reflect the custom and practice of independent nursery schools for many generations and together with:

1.1.1 the letter of offer

1.1.2 the acceptance form; and

1.1.3 the Session and Fees list,

they form the basis of a legally binding contract between the Parents and the Nursery for the provision of nursery services.

1.2 **Variations:** These terms and conditions and the Session and Fees list are subject to change from time to time to reflect changes in the law or in custom and practice at the Nursery.

1.3 **Fees and Notice:** The rules concerning Fees and Notice are of particular importance and are set out in Section 5 and Section 8.

1.4 **Managing change:** The Nursery, as any other nursery, may undergo a number of changes during the time your child is with us. Please see Section 9 for further details of the changes that may be made and the consultation and notice procedures that will apply.

2 Terminology

2.1 **The Nursery or We or Us:** means Berkhamsted Day Nursery Limited as now or in the future constituted (and any successor).

2.2 **The School:** means the Berkhamsted Schools Group as now or in the future constituted (and any successor). Where applicable, the School shall also mean the Nursery.

2.3 **The Nursery Manager:** is responsible for the day-to-day running of the Nursery and that expression includes those to whom any duties of the Nursery Manager have been delegated.

2.4 **Nursery Premises:** means the premises from which the Nursery operates.

- 2.5 **The Parents or You:** means any person who has signed the acceptance form or a person who with the Nursery's express written consent replaces a person who has signed the acceptance form. The Parents are legally responsible, jointly and severally, for complying with their obligations under these terms and conditions. Fees payable by a third party (for example, an employer, grandparent, step-parent without Parental Responsibility or third party credit provider) will be subject to a separate agreement between the Nursery, the Parents and the third party. Please also see clause 5.3 and clause 8.8.
- 2.6 **Parental Responsibility:** Those who have Parental Responsibility (i.e. legal responsibility for the Child) are entitled to receive relevant information concerning the Child whether or not they are a party to this contract unless a court order has been made to the contrary, or there are other reasons which justify withholding information to safeguard the best interests and welfare of the Child.
- 2.7 **The Child:** is the child named on the Acceptance Form.
- 2.8 **Calendar Month:** means the period between the first day and the last day inclusive of any calendar month.

3 The Nursery

- 3.1 **Our aims:** The Nursery is a constantly developing community of children, staff and parents. We aim to provide a happy and secure environment in which each child can develop at his / her own pace. The Parents are expected to give their support and encouragement to the aims of the Nursery and to uphold and promote its good name and to ensure that the Child maintains appropriate standards of punctuality, behaviour, discipline and hygiene.
- 3.2 **The Child's health:** The Parents must inform the Nursery if the Child has any known medical condition or health problem or has been in contact with infectious diseases. The Child must not be brought to the Nursery if unwell.

4 Admission and entry to the Nursery

- 4.1 **Registration of interest:** The Child will be considered for entry to the Nursery when the Registration Form and non-refundable registration fee has been completed and returned to the Nursery.
- 4.2 **Admission:** Admission to the Nursery will be subject to the availability of a place. The admissions requirements for Pre-Prep (including Stepping Stones) and above are set out in the School's Admissions Policy current at the time and published on the School's website. Admission occurs when the Parents accept the offer of a place by the Nursery and they complete the Acceptance Form. A deposit (**Acceptance Deposit**) as shown in the Sessions and Fees List for the relevant year is payable when the Parents accept the offer of a place by completing and returning the signed acceptance form (which may be done by electronic communication). The Acceptance Deposit will be retained in the general funds of the Nursery until the Child leaves and will be repaid without interest following the Child's departure less disbursements and subject to payment of all other sums due to the Nursery. Please also see clause 8.2.
- 4.3 **Entry:** is the date when the Child attends the Nursery for the first time under these terms and conditions. Admission and Entry to the Nursery will be subject to the availability of a place.

4.4 **Equality:** The Nursery welcomes children and staff from many different ethnic groups, backgrounds and creeds. Human rights and freedoms are respected. At present, our physical facilities for the disabled are limited but we will do all that is reasonable to ensure that the Nursery's culture, policies and procedures are made accessible to children who have disabilities and to comply with our legal and moral responsibilities under equality legislation in order to accommodate the needs of applicants and pupils who have disabilities for which, after reasonable adjustments, we can cater adequately.

5 Fees

5.1 **Fees:** may include alone or in combination any of the Registration Fee (if applicable), the Acceptance Deposit and the monthly charge set by the Nursery for all agreed sessions the Child will attend. Standard fees are set for each month, calculated to even out the effect of public holidays and other days when the Nursery is closed during the year. Parents will be consulted regarding any extra costs such as external activities.

5.2 **Fees increases:** Fees are reviewed at least annually and are subject to increase from time to time.

5.3 **Payment of Fees:** The Parents jointly and severally agree to pay the Fees applicable to each Calendar Month directly to the Nursery. This means each of you who has signed the Acceptance Form is liable for and must ensure that all of the Fees due are paid to the Nursery. This is because our contract applies to both of you together and each of you on your own. Each person who signs the Acceptance Form therefore has an individual responsibility to ensure that, between them, the fees and supplemental charges owing to the Nursery are paid. In practice this means that if Fees have not been paid then in order to recover the outstanding payments, the Nursery can, in its discretion, where both parents have signed the Acceptance Form, choose to seek payment of the full amount outstanding from either Parent or both Parents. Court orders (for example, where Parents are separated or divorced) and other arrangements between Parents or third parties relating to Fees do not normally bind or apply to the Nursery, and do not extinguish either Parent's liability for the Fees due under this contract.

5.4 **Payment of Fees by a third party:** An agreement with a third party (such as an employer, grandparent or step-parent without Parental Responsibility) to pay the Fees or any other sum due to the Nursery does not release the Parents from liability if the third party defaults and does not affect the operation of any other of these terms and conditions unless an express release has been given in writing, signed by the Chief Operating Officer. The Nursery reserves the right to refuse a payment from a third party.

5.5 **Fee payment requirements:** Fees for each Calendar Month are due and payable as cleared funds before the commencement of the Calendar Month to which they relate. If an item on the fees invoice is under query, the balance of that fees invoice must be paid. The Nursery accepts childcare vouchers as payment from accredited companies. The Nursery reserves the right to refuse to accept vouchers if the supplier is not fully accredited. The Nursery reserves the right to refuse a payment if it is not satisfied as to the identity of the payer or the source of the funds and may request evidence of these from the Parents.

5.6 **Indemnity:** If the Nursery is required to pay all or part of any sum received from a third party credit provider on behalf of the Parents, the Parents shall indemnify the

Nursery against all losses, expenses (including legal expenses) and interest suffered or incurred by the School.

- 5.7 **Free places:** The Nursery does not offer Free Places where all or part of the Fees are funded by a Nursery Education Grant.
- 5.8 **Refund or waiver:** Any waiver of these terms and conditions is only effective if given in writing by or on behalf of the Finance Director. Save where there is a legal liability, including liability under a court order or under the provisions of this contract to make a refund or reduction, Fees will not be refunded, reduced or waived. Fees will not be refunded or waived for any reason other than exceptionally and at the sole direction of the Nursery manager. This rule is necessary so that the Nursery can properly budget for its own expenditure and to ensure that the cost of individual default does not fall on other parents. No compensation will be paid or refund given if a Nursery session is cancelled due to any reason beyond the control of the Nursery, such as technical problems or weather conditions. The Nursery will endeavour to provide alternative activities where possible.
- 5.9 **Late payment:** Simple interest may be charged on a day-to-day basis on Fees which are unpaid. The rate of interest charged will be at up to 2% per month accruing on a daily basis. The Parents shall also be liable to pay all costs, fees, disbursements and charges including legal fees and costs reasonably incurred by the Nursery in the recovery of any unpaid Fees.
- 5.10 **Exclusion for non-payment:** The Nursery reserves the right to exclude the Child on three days' written notice if Fees are overdue for payment to the Nursery or if the Parents fail to provide information reasonably requested by the Nursery about the identity of the payer of any Fees or the source of the funds. If the Child is excluded for a period of 28 days, he/she will be deemed withdrawn without Notice if payment is not received or evidence requested is not provided.

6 Pastoral care

- 6.1 **Welfare of the Child:** We will do all that is reasonable to safeguard and promote the Child's welfare and to provide pastoral care to at least the standard required by law. We will respect the Child's human rights and freedoms which must, however, be balanced with the lawful needs and rules of our Nursery community and the rights and freedoms of others.
- 6.2 **Physical contact:** The Parents give their consent to such physical contact as may accord with good practice and be appropriate and proper for teaching and instruction and for providing comfort to a child in distress or to maintain safety and good order, or in connection with the Child's health and welfare.
- 6.3 **Concerns or complaints:** Any question, concern or complaint about the pastoral care or safety of the Child must be made to the Nursery Manager or Head of School. A copy of the Nursery's complaints procedure can be provided on request.
- 6.4 **Disclosures:** The Parents must, as soon as possible, disclose to the Nursery in confidence any known medical condition, health problem or allergy affecting the Child, or any family circumstances or court order which might affect the Child's welfare or happiness, or any concerns about the Child's safety.

- 6.5 **Special precautions:** The Nursery Manager must be notified in writing immediately of any court orders of situations of risk in relation to the Child for which any special precautions may be needed.
- 6.6 **Belongings:** The Child should not bring money, valuables, sweets or toys with them to the Nursery, as the Nursery does not accept responsibility for loss or damage to such items. A comforter will be allowed. Parents may be required to sign a consent form to permit the Nursery to use sun cream on their Child. The Nursery provides Amber Solaire 50+ Sun Cream for the Children in spring and summer, and Parents are asked to supply the Nursery with named sun cream for use on their Child only if they wish to use an alternative brand.
- 6.7 **Collection:** The Child must either be collected by one of the Parents or an alternative collector who is listed in the Application Form. The Parents must supply information in accordance with the Nursery's security procedures for collection as required by the Nursery from time to time. This may include, but is not limited to, supplying photographs of the collector and / or a password.
- 6.8 **Dietary requirements:** The Parents should advise the Nursery in writing of any dietary requirements or allergies. The relevant approach to allergies is set out in the School's Allergy Policy which is published on the School website. A doctor's note should be provided if the Child has a medically diagnosed food allergy. All reasonable care will be taken to ensure that the Child does not come into contact with certain foods.
- 6.9 **Transport:** The Parents consent to the Child travelling by any form of public transport and / or in a motor vehicle driven by a responsible adult who is duly licensed and insured to drive a vehicle of that type in the unlikely event this is deemed necessary.
- 6.10 **Communications from parents:** Communications or instructions from one of the Parents or any person with Parental Responsibility shall be deemed by the Nursery to be received from both Parents unless there is evidence to the contrary. This requirement does not apply to the giving of Notice for the cancellation of the place or the withdrawal of the Child from the Nursery. Those persons who are required to consent to or to give Notice of cancellation or withdrawal are set out in Section 8.
- 6.11 **Photographs or images (including video recordings):** The Nursery may obtain and use photographs or images (including video recordings) of the Child for:
- 6.11.1 use in the Nursery's promotional material such as the prospectus, the website or social media;
 - 6.11.2 press and media purposes; or
 - 6.11.3 educational purposes as part of the curriculum or extra-curricular activities.
- Please see the pupil privacy notice for more information about how the Nursery uses photographs and videos of pupils (and Children). The Nursery may seek specific consent from the Parents before using a photograph or video recording where the Nursery considers that the use is more privacy intrusive. We would not disclose the home address of the Child without the Parents' consent.
- 6.12 **Request for confidentiality:** The Parents may ask Us to keep information about the Child confidential. For example, You may ask Us to not use photographs of the Child in promotional material or ask Us to keep the fact that the Child is on the Nursery roll

confidential. If the Parents would like information about the Child to be kept confidential, they must immediately contact the Nursery Manager in writing, requesting an acknowledgment of their letter.

- 6.13 **Nursery's liability:** Unless negligent or guilty of some other wrongdoing causing injury, loss or damage, the Nursery does not accept responsibility for accidental injury or other loss caused to the Child or Parents or for loss or damage to property.

7 Health and medical matters

- 7.1 **Infectious diseases:** The Child will not be accepted into the Nursery with an infectious disease and must not return to the Nursery until medically fit. The Nursery reserves the right to send the Child home if they become unwell whilst under the Nursery's care. It is a condition of acceptance that the Parents leave a daytime contact number.
- 7.2 **Medicine:** With the exception of 'liquid paracetamol', the Nursery cannot administer any medicine to the Child unless prescribed by a doctor. 'Liquid paracetamol' will only be administered if the Child has a temperature and if the Nursery holds a consent form signed by the Parents to enable it to do so. The Nursery will maintain a medical register detailing any medicines administered to children. In the case of a prescription medicine, Parents will be required to fill in a consent form on a daily basis for the administration of medicine and to confirm dosage. The prescription medicine will only be administered after the child has been absent for 24 hours to ensure no reaction occurs.
- 7.3 **Medical information:** Throughout the Child's time as a member of the Nursery, the Nursery Manager shall have the right to disclose confidential information about the Child if considered to be in the Child's own interests or necessary for the protection of other members of the Nursery community. Such information will be given and received on a confidential, "need-to-know" basis.
- 7.4 **First aid provision:** The Parents consent to the Child receiving first aid treatment as and when necessary from an appropriately qualified person.
- 7.5 **Emergency medical treatment:** The Parents authorise the Nursery Manager to consent on their behalf to the Child receiving emergency medical treatment where certified by an appropriately qualified person as necessary for the Child's welfare, and if the Parents or a second emergency contact cannot be contacted in time.

8 Cancellation, session changes and withdrawal

- 8.1 **Cancel or Cancellation:** means the cancellation of a place at the Nursery which has been accepted by the Parents and which occurs before the Child enters the Nursery or where the Child does not enter the Nursery. Please see clause 4.1 for details of when Entry to the Nursery occurs
- 8.2 **Withdraw or Withdrawal:** means the withdrawal of the Pupil from the Nursery by the Parents with or without Notice required under these Terms and conditions at any time after the Child has entered the Nursery. Please see clause 4.1 for details of when Entry to the Nursery occurs.
- 8.3 **Notice:** means one Calendar Month's written notice given by:
- 8.3.1 both Parents; or

8.3.2 one of the Parents with the prior written consent of the other parent; and

8.3.3 in either case the prior written consent of any other person with Parental Responsibility

delivered to and actually received by the Nursery Manager before the first day of the Calendar Month. An acknowledgement of receipt must be requested and received. No other notice will suffice.

- 8.4 **Cancellation rights:** If the offer of a place and its acceptance are both made entirely at distance by means of post, fax or electronic communication without either of the Parents meeting face to face with a member of the Nursery staff or Berkhamsted Schools Group during the contractual process the Parents have the right to cancel this contract at any time within 14 days of the day after we receive your completed and signed acceptance form. Information about the right to cancel and how to cancel is set out in the School's cancellation notice and form published on the School website. In such circumstances the Acceptance Deposit will be refunded together with any Fees paid pro-rated if the Nursery has provided any services under this contract. Where the offer of a place and its acceptance are not made entirely at distance without meeting face to face as described above, and the Nursery receives a Calendar Month's written notice of cancellation, no further fees will be payable but you will not receive a refund of the Acceptance Deposit.
- 8.5 **Cancelling acceptance:** If the Parents give less than one Calendar Month's Notice or if the Child does not join the Nursery at all, one Calendar Month's Fees at the rate payable for the Calendar Month of Entry, less the Acceptance Deposit, will be payable as a debt. If the Parents give more than one Calendar Month's Notice, the Nursery will limit the Parents' liability to the Acceptance Deposit held. The Acceptance Deposit should therefore only be paid once a firm decision to join the Nursery has been made. The Nursery relies on commitments given when accepting places to budget for income and expenditure requirements each year. Cases of genuine hardship will be given special consideration on written request.
- 8.6 **Cancelling a place offered in the Calendar Month before Entry:** If the offer of a place is made in the Calendar Month prior to the Calendar Month of Entry the Parents may cancel their acceptance in writing at any time up to two weeks from the date of the acceptance form. The Acceptance Deposit will then be retained by the Nursery. If the Parents give notice of cancellation after this date or give no notice of cancellation they will incur a liability to pay one Calendar Month's Fees at the rate payable for the Calendar Month of Entry, less the Acceptance Deposit, payable as a debt.
- 8.7 **Notice of withdrawal:** Except in the final Calendar Month, one Calendar Month's Notice must be given before the Child is withdrawn or one Calendar Month's Fees in lieu will be due and payable as a debt at the rate applicable on the date of invoice. Provisional notice is not accepted. Cases of genuine hardship will be given special consideration on written request.
- 8.8 **Session changes:** Any request for a change to the regular pattern or number of sessions a child attends must be made with at least one Calendar Month's Notice and will be subject to availability and the Nursery's minimum session requirements.

8.9 **Removal:** The Parents may be required to remove the Child, temporarily or permanently from the Nursery, if, after consultation with the Parents, the Nursery Manager is of the opinion that by reason of the Child's conduct, the continued presence of the Child is incompatible with the interests of the Nursery, or if a parent has treated the Nursery or members of its staff unreasonably. The Nursery is not obliged to provide notice under these circumstances. There will be no refund of fees but the Acceptance Deposit will be returned and fees in lieu of notice would not be charged.

9 General conditions

9.1 **Data protection:** The School has a parent privacy notice and pupil privacy notice which explain how the School will use personal data. These notices are provided with the letter of offer and are published on the School's website. The Parents must read these notices before signing the acceptance form.

9.2 **Change:** The Nursery, as any other, may undergo a number of changes during the period of this contract. For example, there may be changes in the staff, and in the premises, facilities and their use, in the activities and the size and composition of rooms, and in the Nursery rules and procedures, the disciplinary framework, and the length of Nursery Terms. In addition, there may be the need for the Nursery to undertake a corporate reorganisation exercise and/or a merger or change of ownership may be necessary. For these reasons, the benefit and burden of this contract may be freely assigned to another party at the discretion of the Nursery.

9.3 **Consultation:** It is not practicable to consult with the Parents over every change that may take place. Whenever practicable, the Nursery will use reasonable endeavours to ensure that the Parents will be consulted and provided with reasons for the change and where possible given at least a Calendar Months' notice in writing of:

9.3.1 a material change of ethos or culture; or

9.3.2 a material change in any physical aspect of the Nursery which would have a significant effect on the Child's education or pastoral care; or

9.3.3 a change of ownership of the Nursery

where such changes are not temporary.

9.4 **Insurances:** The Nursery undertakes to maintain those insurances which are prescribed by law. All other insurances are the responsibility of the Parents.

9.5 **Management:** It is our intention that these terms and conditions will always be operated so as to achieve a balance of fairness between the rights and needs of parents and children, and those of the Nursery community as a whole. We aim also to promote good order and discipline throughout our Nursery community and to ensure compliance with the law.

9.6 **Legal contract:** The offer of a place and its acceptance by the Parents give rise to a legally binding contract on the terms of these terms and conditions, together with the letter of offer, the Acceptance Form and the Session and Fees List.

9.7 **Consumer protection:** Care has been taken to use plain language and to give clear explanations in these terms and conditions. If any words alone or in combination

infringe consumer rights laws or any other provision of law, they shall be treated as severable and shall be replaced with words which give as near the original meaning as may be fair. Nothing in these terms and conditions affects the Parents' statutory rights.

- 9.8 **Information for parents:** We provide parents of prospective nursery children with information about the Nursery and the services we provide in good faith. This information may be contained in the prospectus / website / promotional literature or in statements made by staff during a visit or an open day. If the Parents wish to take account of the information provided to them when deciding whether to enter into this contract they should seek specific confirmation from the Nursery Manager that the information is accurate before returning a completed acceptance form to the Nursery.
- 9.9 **Non-Solicitation:** During the term of this contract and for six months after any termination of this Contract, the Parents will not, without prior written consent of the Nursery, either directly or indirectly, on the Parents' own behalf or in the service or on behalf of others, solicit or attempt to solicit, divert or hire away any person employed by the Nursery.
- 9.10 **Third party rights:** Only the Nursery and the Parents are parties to this contract. Neither the Child nor any third party is a party to this contract and shall not have any rights to enforce any term of it.
- 9.11 **Interpretation:** These terms and conditions supersede any previously in force and will be construed as a whole. Headings, unless required to make sense of the immediate context, are for ease of reading only and are not otherwise part of these terms and conditions.
- 9.12 **Jurisdiction:** This contract was made at the Nursery and it, together with each matter relating to the provision of nursery services by the Nursery, is governed exclusively by the law of England and Wales and the parties submit to the exclusive jurisdiction of the Courts of England and Wales.

Berkhamsted Day Nursery Limited
Registered in England: Company Number: 7610890
Registered Office: 6 Chesham Road, Berkhamsted, Herts, HP4 3AA