



Data Protection Policy (including document retention)

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DATA PROTECTION POLICY (inc. document retention)

POLICY STATEMENT

Approved Training is committed to a policy of protecting the rights and privacy of individuals (includes learners, staff and others) in accordance with the Data Protection Act 2018 which is the UK's implementation of the General Data Protection Regulation (GDPR). Approved Training needs to process certain information about its staff, learners and other individuals it has dealings with for administrative purposes (eg to recruit and pay staff, to administer programmes of study, to record progress, to agree awards, to collect fees, and to comply with legal obligations to funding bodies and government). To comply with the law, information about individuals must be collected and used fairly, stored safely and securely and not disclosed to any third party unlawfully.

The policy applies to all staff and learners of Approved Training. Any breach of the Data Protection Act 1998 or Approved Training Data Protection Policy is considered to be an offence and in that event, Approved Training disciplinary procedures will apply. As a matter of good practice, other agencies and individuals working with Approved Training, and who have access to personal information, will be expected to have read and comply with this policy. It is expected that departments/sections who deal with external agencies will take responsibility for ensuring that such agencies sign a contract agreeing to abide by this policy.

Background to the Data Protection Act 1998

The Data Protection Act 1998 enhances and broadens the scope of the Data Protection Act 1984. Its purpose is to protect the rights and privacy of living individuals and to ensure that personal data is not processed without their knowledge, and, wherever possible, is processed with their consent.

DEFINITIONS

Personal Data

- Data relating to a living individual who can be identified from that information or from that data and other information in possession of the data controller. Includes name, address, telephone number, and id number. Also includes expression of opinion about the individual, and of the intentions of the data controller in respect of that individual.

Sensitive Data

- Different from ordinary personal data (such as name, address, telephone) and relates to racial or ethnic origin, political opinions, religious beliefs, trade union membership, health, sex life, criminal convictions. Sensitive data are subject to much stricter conditions of processing.

Data Controller

- Any person (or organisation) that makes decisions with regard to particular personal data, including decisions regarding the purposes for which personal data are processed and the way in which the personal data are processed.

Data Subject

- Any living individual who is the subject of personal data held by an organisation.

Processing

- Any operation related to organisation, retrieval, disclosure and deletion of data and includes: Obtaining and recording data accessing, altering, adding to, merging or deleting data.

Third Party

- Any individual/organisation other than the data subject, the data controller (Training Company) or its agents.

Relevant Filing System

- Any paper filing system or other manual filing system, which is structured so that information about an individual is readily accessible. Please note that this is the definition of "Relevant Filing System" in the Act. Personal data as defined, and covered, by the Act can be held in any format, electronic (including websites and emails), paper-based, photographic etc. from which the individual's information can be readily extracted.

Responsibilities of the Data Protection Act

- Approved Training as a body corporate is the data controller under the new Act.
- Compliance with data protection legislation is the responsibility of all members of Approved Training who process personal information.
- Members of Approved Training are responsible for ensuring that any personal data supplied to Approved Training are accurate and up-to-date.

Data Protection Principles

All processing of personal data must be done in accordance with the eight data protection principles.

1. Personal data shall be processed fairly and lawfully.
 - Those responsible for processing personal data must make reasonable efforts to ensure that data subjects are informed of the identity of the data controller, the purpose(s) of the processing, any disclosures to third parties that are envisaged and an indication of the period for which the data will be kept.
2. Personal data shall be obtained for specific and lawful purposes and not processed in a manner incompatible with those purposes.
 - Data obtained for specified purposes must not be used for a purpose that differs from those.
3. Personal data shall be adequate, relevant and not excessive in relation to the purpose for which it is held.
 - Information which is not strictly necessary for the purpose for which it is obtained should not be collected. If data is given or obtained which

is excessive for the purpose, it should be immediately deleted or destroyed.

4. Personal data shall be accurate and, where necessary, kept up to date.
 - Data, kept for a long time, must be reviewed and updated as necessary. No data should be kept unless it is reasonable to assume accurate. It is the responsibility of individuals to ensure that data held by Approved Training is accurate and up-to-date. Completion of an appropriate registration or application form etc will be taken, as an indication that the data contained therein is accurate. Individuals should notify Approved Training of any changes in circumstance to enable personal records to be updated accordingly. It is the responsibility of Approved Training to ensure that any notification regarding change of circumstances is noted and acted upon.
5. Personal data shall be kept only for as long as necessary.
6. Personal data shall be processed in accordance with the rights of data subjects under the Data Protection Act.
7. Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of data.
8. Personal data shall not be transferred to a country or a territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Data must not be transferred outside of the European Economic Area (EEA) - the EU Member States together with Iceland, Liechtenstein and Norway - without the explicit consent of the individual. Members of Approved Training should be particularly aware of this when publishing information on the Internet, which can be accessed from anywhere in the globe.

This is because transfer includes placing data on a web site that can be accessed from outside the EEA.

Data Subject Rights

Data Subjects have the following rights regarding data processing and the data that are recorded about them:

- To make subject access requests regarding the nature of information held and to whom it has been disclosed.
- To prevent processing likely to cause damage or distress.
- To prevent processing for purposes of direct marketing.
- To be informed about mechanics of automated decision taking process that will significantly affect them.
- Not to have significant decisions that will affect them taken solely by automated process.
- To sue for compensation if they suffer damage by any contravention of the

Act.

- To take action to rectify, block, erase or destroy inaccurate data.
- To request the Commissioner to assess whether any provision of the Act has been contravened.

Consent

Wherever possible, personal data or sensitive data should not be obtained, held, used or disclosed unless the individual has given consent. Approved Training understands "consent" to mean that the data subject has been fully informed of the intended processing and has signified their agreement, whilst being in a fit state of mind to do so and without pressure being exerted upon them. Consent obtained under duress or on the basis of misleading information will not be a valid basis for processing. There must be some active communication between the parties such as signing a form and the individual must sign the form freely of their own accord.

Consent cannot be inferred from non-response to a communication. For sensitive data, explicit written consent of data subjects must be obtained unless an alternative legitimate basis for processing exists.

In most instances consent to process personal and sensitive data is obtained routinely by Approved Training (eg when a student signs a registration form or when a new member of staff signs a contract of employment). Any Training Company forms (whether paper-based or web-based) that gather data on an individual should contain a statement explaining what the information is to be used for and to whom it may be disclosed. It is particularly important to obtain specific consent if an individual's data are to be published on the Internet as such data can be accessed from all over the globe. Therefore, not gaining consent could contravene the eighth data protection principle.

If an individual does not consent to certain types of processing (eg direct marketing), appropriate action must be taken to ensure that the processing does not take place.

If any member of Approved Training is in any doubt about these matters, they should consult Approved Training's Data Protection Officer or Managing Director.

Security of Data

All staff are responsible for ensuring that any personal data (on others), which they hold, are kept securely and that they are not disclosed to any unauthorised third party.

All personal data should be accessible only to those who need to use it. You should form a judgement based upon the sensitivity and value of the information in question, but always consider keeping personal data:

- In a lockable room with controlled access, or
- In a locked drawer or filing cabinet, or
- If computerised, password protected, or
- Kept on disks which are themselves kept securely.

Care should be taken to ensure that PCs and terminals are not visible except to

authorized staff and that computer passwords are kept confidential. PC screens should not be left unattended without password protected screen-savers and manual records should not be left where they can be accessed by unauthorised personnel.

Care must be taken to ensure that appropriate security measures are in place for the deletion or disposal of personal data. Manual records should be shredded or disposed of as "confidential waste". Hard drives of redundant PCs should be wiped clean before disposal.

This policy also applies to staff and learners who process personal data "off-site". Off-site processing presents a potentially greater risk of loss, theft or damage to personal data. Staff and learners should take particular care when processing personal data at home or in other locations outside the Training Centre.

Rights of Access to Data

Members of Approved Training have the right to access any personal data, which are held by Approved Training in electronic format and manual records, which form part of a relevant filing system. This includes the right to inspect confidential personal references received by Approved Training about that person.

Any individual who wishes to exercise this right should apply in writing to the Data Protection Officer. Approved Training reserves the right to charge a fee for data subject access requests (currently £10). Any such request will normally be complied with within 40 days of receipt of the written request and, where appropriate, the fee. In order to respond efficiently to subject access requests Approved Training needs to have in place appropriate records management practices.

Disclosure of Data

Approved Training must ensure that personal data are not disclosed to unauthorised third parties which includes family members, friends, government bodies, and in certain circumstances, the Police. All staff and learners should exercise caution when asked to disclose personal data held on another individual to a third party. For instance, it would usually be deemed appropriate to disclose a colleague's work contact details in response to an enquiry regarding a particular function for which they are responsible. However, it would not usually be appropriate to disclose a colleague's work details to someone who wished to contact them regarding a non-work related matter. The important thing to bear in mind is whether or not disclosure of the information is relevant to, and necessary for, the conduct of Training Company business. Best practice, however, would be to take the contact details of the person making the enquiry and pass them onto the member of Approved Training concerned.

This policy determines that personal data may be legitimately disclosed where one of the following conditions apply:

1. The individual has given their consent (eg a student/member of staff has consented to Approved Training corresponding with a named third party);
2. Where the disclosure is in the legitimate interests of the institution (eg disclosure to staff - personal information can be disclosed to other Training Company employees if it is clear that those members of staff require the

- information to enable them to perform their jobs);
3. Where the institution is legally obliged to disclose the data (eg HESA and HESES returns, ethnic minority and disability monitoring);
 4. Where disclosure of data is required for the performance of a contract (eg informing a student's LEA or sponsor of course changes/withdrawal etc).

The Act permits certain disclosures without consent so long as the information is requested for one or more of the following purposes:

- To safeguard national security*
- Prevention or detection of crime including the apprehension or prosecution of offenders*
- Assessment or collection of tax duty*
- Discharge of regulatory functions (includes health, safety and welfare of persons at work)*
- To prevent serious harm to a third party
- To protect the vital interests of the individual, this refers to life and death situations.

*Requests must be supported by appropriate paperwork.

When members of staff receive enquiries as to whether a named individual is a member of Approved Training, the enquirer should be asked why the information is required. If consent for disclosure has not been given and the reason is not one detailed above (i.e. consent not required), the member of staff should decline to comment. Even confirming whether or not an individual is a member of Approved Training may constitute an unauthorised disclosure.

Unless consent has been obtained from the data subject, information should not be disclosed over the telephone. Instead, the enquirer should be asked to provide documentary evidence to support their request. Ideally a statement from the data subject consenting to disclosure to the third party should accompany the request.

As an alternative to disclosing personal data, Approved Training may offer to do one of the following:

- Pass a message to the data subject asking them to contact the enquirer;
- Accept a sealed envelope/incoming email message and attempt to forward it to the data subject.

Please remember to inform the enquirer that such action will be taken conditionally: i.e. "if the person is a member of Approved Training" to avoid confirming their membership of, their presence in or their absence from the institution.

Retention and Disposal of Data

Approved Training discourages the retention of personal data for longer than they

are required. Considerable amounts of data are collected on current staff and learners. However, once a member of staff or student has left the institution, it will not be necessary to retain all the information held on them. Some data will be kept for longer periods than others.

Documents and data relating to training activity funded by The Education and Skills Funding Agency will be retained in accordance with their terms and conditions, comprising:

- THE CONTRACTOR and its sub-contractors shall maintain original invoices; management information returns and all other documents necessary to verify the Services in relation to this Contract for 6 years from the end of the financial year in which the last payment is made.
- Where the Services have been funded using monies from the European Structural and Investment Funds, or where any payments made under this Contract for the Services have been used as match-funding for a European Structural and Investment Fund Co-Financing project THE CONTRACTOR will be required to retain all documents necessary to verify the Services provided by itself or by its sub-contractors. Documents to support claims must be retained for a minimum of three years after the European Commission has made its final payment. For the 2007-13 ESF Programme this is expected to be until at least 31 December 2022 and for the 2014-20 ESF Programme until at least 31 December 2030.
- Confirmation of the document destroy date will be notified in writing by THE CHIEF EXECUTIVE of the ESFA.

Learners

In general, electronic student records containing information about individual learners are kept indefinitely and information would typically include name and address on entry and completion, programmes taken, examination results, awards obtained.

Departments should regularly review the personal files of individual learners in accordance with Approved Training's Records Retention Schedule.

Learners funded by the Education and Skills Funding Agency will sign to agree to the published privacy notice <https://guidance.submit-learner-data.service.gov.uk/22-23/ilr/ilrprivacynotice>

For the funding contract year 2022/23, the notice will state the following:

This privacy notice is issued by the Education and Skills Funding Agency (ESFA) on behalf of the Secretary of State for the Department of Education (DfE) to inform learners about the Individualised Learner Record (ILR) and how their personal information is used in the ILR. Your personal information is used by the DfE to exercise our functions under article 6(1)(e) of the UK GDPR and to meet our statutory responsibilities, including under the Apprenticeships, Skills, Children and Learning Act 2009.

The ILR collects data about learners and learning undertaken. Publicly funded colleges,

training organisations, local authorities, and employers (FE providers) must collect and return the data to the ESFA each year under the terms of a funding agreement, contract or grant agreement. It helps ensure that public money distributed through the ESFA is being spent in line with government targets. It is also used for education, training, employment, and well being purposes, including research. We retain ILR learner data for 3 years for operational purposes and 66 years for research purposes. For more information about the ILR and the data collected, please see the ILR specification at <https://www.gov.uk/government/collections/individualised-learner-record-ilr>

ILR data is shared with third parties where it complies with DfE data sharing procedures and where the law allows it. The DfE and the English European Social Fund (ESF) Managing Authority (or agents acting on their behalf) may contact learners to carry out research and evaluation to inform the effectiveness of training.

For more information about how your personal data is used and your individual rights, please see the DfE Personal Information Charter (<https://www.gov.uk/government/organisations/department-for-education/about/personal-information-charter>) and the ESFA Privacy Notice (<https://www.gov.uk/government/publications/esfa-privacy-notice>)

If you would like to get in touch with us or request a copy of the personal information DfE holds about you, you can contact the DfE in the following ways:

Using our online contact form

<https://www.gov.uk/government/organisations/department-for-education/about/personal-information-charter>

By telephoning the DfE Helpline on 0370 000 2288

Or in writing to – Data Protection Officer, Ministerial and Public Communications Division, Department for Education, Piccadilly Gate, Store Street, Manchester, M1 2WD

If you are unhappy with how we have used your personal data, you can complain to the Information Commissioner's Office (ICO) at:

Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. You can also call their helpline on 0303 123 1113 or visit <https://www.ico.org.uk>

Staff

In general, electronic staff records containing information about individual members of staff are kept indefinitely and information would typically include name and address, positions held, leaving salary. Other information relating to individual members of staff will be kept by the Personnel Department for 6 years from the end of employment. Information relating to Income Tax, Statutory Maternity Pay etc will be retained for the statutory time period (between 3 and 6 years). Departments should regularly review the personal files of individual staff members in accordance with Approved Training's Records Retention Schedule.

Information relating to unsuccessful applicants in connection with recruitment to a post must be kept for 12 months from the interview date. Personnel may keep a record of names of individuals that have applied for, be short-listed, or interviewed, for posts indefinitely. This is to aid management of the recruitment process.

Disposal of Records

Personal data must be disposed of in a way that protects the rights and privacy of data subjects (eg, shredding, disposal as confidential waste, secure electronic deletion).

Publication of Training Company Information

It is recognised that there might be occasions when a member of staff, a student, or a lay member of Approved Training, requests that their personal details in some of these categories remain confidential or are restricted to internal access. All individuals should be offered an opportunity to opt-out of the publication of the above (and other) data. In such instances, Approved Training should comply with the request and ensure that appropriate action is taken.

Direct Marketing

Any department or section that uses personal data for direct marketing purposes must inform data subjects of this at the time of collection of the data. Individuals must be provided with the opportunity to object to the use of their data for direct marketing purposes (eg an opt-out box on a form).