

INTRODUCTION AND SCOPE

Collecting and using personal information is vital for the operation of Opportunity Learning Academy as an educational organisation and the Academy views the correct and lawful handling of data about individuals as key to its success.

We are committed to complying with the General Data Protection Regulation (GDPR) and the UK Data Protection Act 2018 which aims to make organisations fully accountable for the data that they process about individuals. This policy sets out the steps that we take to demonstrate that we have robust and effective processes in place to protect individuals' data.

The policy applies to:

- Academy staff, contractors, consultants, external trainers, volunteers
- All learners

Definitions

1.1 Consent

Any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.

1.2 Data

Any data which identifies a living individual (subject). There are two categories of data in relation to individuals:

Personal data is any data which could be used to identify a living individual e.g. name, contact details (address, telephone number, email address), date of birth, age, gender, bank details, next of kin, photographs, CCTV images, audio recordings.

**Special category personal data is any data which an individual may not wish others to be aware of e.g. ethnicity/nationality, mental/physical health, criminal convictions, socio economic status, personal life (marital status, pregnancy/maternity, interests/hobbies), genetic/biometric profile*, sexuality*, faith/religion*, membership of Trades Unions* Items marked *may not be processed by the Academy unless the learner/employee gives their consent for this data to be processed for specific and lawful purposes. In most cases, the Group has to process special category personal data to meet vital interests and legal obligations but will always seek explicit consent for processing.

**Special category data was known as sensitive data under the Data Protection Act 1998

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1.3 Data Processor

A person, public authority, agency or other body which processes personal data on behalf of the controller e.g. a subcontractor

1.4 Data subject

An identified or identifiable, living person

1.5 Processing

is any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

1.6 Pseudonymisation

The processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information e.g. use of an encryption code.

2. The 7 Data Protection Principles

The GDPR sets out six principles with which any party handling data about individuals must comply. The Regulation states that data shall be:

1. processed fairly, lawfully and transparently;
2. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
3. adequate, relevant and limited to what is necessary;
4. accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate...are erased or rectified without delay;
5. kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed;
6. processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage

7. Comply with the relevant data protection procedures for international transferring of personal data.

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3. Lawful basis for processing data

The GDPR imposes a requirement for organisations to determine a lawful basis for processing data to include at least one of the following criteria:

- Consent – where an individual has given their consent via clear, affirmative action e.g. providing a signature or ticking a box;
- Performance of a contract e.g. an employment contract, learning agreement etc;
- Legal obligations – because the law requires the data to be processed e.g. for the purposes of HMRC payments;
- Vital interests – to protect the individual in the case of an emergency;
- Public interest or exercise of official authority e.g. provision of statistical returns, to comply with government funding requirements etc;
- Legitimate interests – which details the type of data which is processed, the lawful basis for processing, how the data is stored and who the data may be shared with/accessed by

4. Data Protection Standards

Staff and any individuals officially appointed to work on behalf of Opportunity Learning Academy must abide by the principles outlined in this policy and the data protection charter. Specifically, they must ensure that:

- All personal data collected and processed for and on behalf of the Academy by any party is collected and processed fairly and lawfully;
- Data subjects are made fully aware of the reasons for the collection of personal data and are given details of the purpose for which the data will be used. This will be achieved via publication of Privacy Notices;
- Personal data is only collected to the extent that is necessary to fulfil the stated purpose(s);
- All personal data is accurate at the time of collection; Opportunity Learning Academy must keep it accurate and up-to-date while it is being held and/or processed;
- No personal data is held for any longer than necessary in light of the stated purpose(s);
- All personal data is held in a safe and secure manner, taking all appropriate technical and organisational measures to protect the data;
- All personal data is transferred using secure means, electronically or otherwise;

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- Data is not unnecessarily duplicated or distributed;
- Data protection risks will be considered and mitigated by carrying out a Data Protection Impact Assessment in certain circumstances (see section 7).
- No personal data is transferred outside of the UK without first ensuring that appropriate safeguards are in place in the destination country or territory. This will be determined by undertaking a Data Protection Impact Assessment.

Opportunity learning Academy shall ensure that the following measures are taken with respect to the processing of personal data:

- All staff and other parties working on behalf of the Academy will be made fully aware of both their individual responsibilities and the companies statutory responsibilities and shall be either provided a copy of this policy or directed to a copy available on the Academy website.
- All staff or other parties working on behalf of the Academy who process personal data will be appropriately trained to do so. New staff will undertake training in data protection when they commence employment and participate in refresher training at least every three years after that.
- All staff and other parties working on behalf of the Academy who process personal data will be appropriately supervised.
- Methods of collecting, holding and processing personal data shall be regularly evaluated and reviewed and internal data audits carried out at least every three years.
- All staff or other parties working on behalf of the Academy who process personal data will be bound to do so in accordance with data protection legislation and this Policy by contract. Failure by an employee to comply shall constitute a disciplinary offence. Failure by any contractor, agent, consultant, partner or other party to comply shall constitute a breach of contract. In all cases, failure to comply may also constitute a criminal offence under data protection legislation.
- All contractors, agents, consultants, partners or other parties working on behalf of Academy who process personal data must ensure that any and all of their employees who are involved in the processing of personal data are held to the same conditions as those relevant employees Opportunity Learning Academy arising out of this Policy and data protection legislation.
- Where any contractor, agent, consultant, partner or other party working on behalf of the Academy fails in their obligations under this Policy that party shall indemnify and hold harmless Opportunity Learning Academy against any costs, liability, damages, loss, claims or proceedings which may arise out of that failure.
- Upon terminating service to Opportunity Learning Academy all employees, contractors, consultants, partners or other parties working on behalf of the Academy warrant that they have returned and destroyed all duplicate copies of any personal data they have held whilst

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undertaking activities on behalf of the Academy and will not use, retain or transfer any such information collected whilst in the services of Opportunity Learning Academy.

Upon terminating services to Opportunity Learning Academy all employees, contractors, consultants, partners or other parties working on behalf of the Group will have their work email account and access to the network terminated with immediate effect.

5. Processing Personal Data

5.1 Opportunity Learning Academy collects and processes information for various purposes, including educational administration, funding, statistical research, health and safety, employment, training, career guidance, equality and disability policy monitoring, security and insurance reasons. The Academy only holds personal data which is directly relevant to its dealings with a given individual. The Academy holds data in electronic and paper form; data will be held and processed in accordance with legislative requirements and with this policy. All information concerning individuals is treated in the strictest of confidence and will not be released unless the individual gives consent.

5.2 Learner personal data may be disclosed within the Academy for administrative purposes. Personal data may be passed from one area to another in accordance with legislation and this policy. Under no circumstances will personal data be passed to any area or any individual within the Academy that does not reasonably require access to that personal data with respect to the purpose(s) for which it was collected and is being processed.

5.3 Personal data shall also be used by the Academy in meeting any and all relevant obligations imposed by law and for its own security, disciplinary or insurance reasons. The data will be used for administrative purposes as outlined above while the learner is on roll and after course completion for marketing purposes. Personal data shall not be passed to external parties without the learners agreement unless the purpose is to fulfil a statutory duty

5.4 Staff data is used by the Academy to administer and facilitate efficient transactions with third parties including, but not limited to, its partners, associates, affiliates and government agencies and to efficiently manage its employees, contractors, agents and consultants.

5.5 Personal data relating to employees should not be kept or transported on laptops, USB sticks, or similar devices, unless authorised by the Director. Where personal data is recorded on any such device it should be protected by:

- ensuring that data is recorded on such devices only where absolutely necessary
- ensuring that laptops or USB drives are not left lying around where they can be stolen.

Failure to follow the Opportunity Learning Academy's rules on data security may be dealt with via the disciplinary procedure. Appropriate sanctions include dismissal with or without notice dependent on the severity of the failure may apply.

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6. Consent

We will always seek consent from learners and staff for the purpose of using their data for internal or external marketing purposes. Opportunity Learning Academy has certain statutory obligations under which it may be required to pass personal information relating to a data subject to external agencies. Where possible the data subject will be informed about these disclosures but in some subject's consent in the case of protecting a data subject's or others' vital interests, to support criminal investigations and in matters of national security.

7.Data Subjects Rights

Data Subjects' Rights Data Subjects have the following rights under data protection legislation. These rights are explained below together with details of how we will ensure these rights are met. Opportunity Learning Academy undertakes to fulfil any rights exercised by a data subject within 1 month of the request being made.

7.1 Right to be informed - The Academy will inform data subjects about the data that it processes and will do this via Privacy Notices published on the Academy website.

The notices detail:

- What data will be collected
- Why the Academy needs the data
- The legal basis for processing the data
- Data subject's rights
- Who will have access to the data
- How long the data will be retained for Contact Details for the DPO

7.2 Right of access - Data subjects have the right to obtain confirmation that their data is being processed and the right to submit a data subject access request (DSAR) to gain access to their personal data in order to verify the lawfulness of the processing or obtain copies of their records for other purposes. Data Subject Access Requests can be made by completing and submitting this form. Some data may be subject to an exclusion under GDPR and the Data Protection Act 2018 and cannot therefore be released to the data subject even though they may have requested it.

7.3 The right to rectification - Data subjects may request that inaccurate or incomplete personal data is rectified.

7.4 The right to erasure (right to be forgotten)- Data subjects have the right to request the erasure (deletion) or removal of personal data where there is no lawful basis for its continued processing, in the following circumstances:

- Where the personal data is no longer necessary in relation to the purpose for which it was originally collected/processed
- When the individual withdraws their consent
- When the individual objects to the processing and there is no overriding legitimate interest for continuing the processing
- The personal data was unlawfully processed

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- The personal data is required to be erased in order to comply with a legal obligation
- The personal data is processed in relation to the offer of information society services e.g., selling goods or services on-line, to a child
- In a marketing context, where personal data is collected and processed for direct marketing purposes, the individual has a right to object to processing at any time. Where the individual objects, the personal data must not be processed for such purposes. Opportunity Learning Academy has the right to refuse a request for erasure where the personal data is being processed for the following reasons:
 - To exercise the right of freedom of expression and information.
 - To comply with a legal obligation for the performance of a public interest task or exercise of official authority.
 - For public health purposes in the public interest.
 - For archiving purposes in the public interest, scientific research, historical research, or statistical purposes.
 - The exercise or defence of legal claims.
 - Where personal data has been disclosed to third parties, they will be informed about the erasure of the personal data, unless it is impossible or involves disproportionate effort to do so;
 - Where personal data has been made public within an online environment. We may be able to exercise the right to erasure where content has been downloaded or re-shared.
 - Where personal data has been used for printed materials such as marketing leaflets and prospectuses and these have already been distributed.

7.5 The right to restrict processing - Data subjects have the right to request that the Academy blocks processing of their personal data unless that restriction means that Opportunity Learning Academy is unable to fulfil a legal or contractual obligation or there is another lawful basis for processing. We will restrict processing of personal data in the following circumstances:

- Where an individual disputes the accuracy of the personal data
- Where an individual has objected to the processing, and we are considering whether our legitimate grounds override those of the individual
- Where processing is unlawful

7.6 The right to data portability - Data subjects have the right to obtain and reuse their personal data for their own purposes across different services. The right to data portability only applies in the following cases:

- To personal data that an individual has provided to a controller
- Where the processing is based on the individual's consent or for the performance of a contract
- When processing is carried out by automated means

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We are not required to adopt or maintain processing systems, which are technically compatible with other organisations. In the event that the personal data concerns more than one individual, we will consider whether providing the information would prejudice the rights of any other individual.

7.7 The right to object Data - subjects have the right to object to the following:

- Processing based on legitimate interests or the performance of a task in the public interest
- Direct marketing (we cannot refuse an objection to processing for direct marketing purposes)
- Processing for purposes of scientific or historical research and statistics. We will not stop processing the data subject's data if the processing is for the establishment, exercise or defence of legal claims or where we can demonstrate compelling legitimate grounds for the processing, which override the interests, rights and freedoms of the data subject.

7.8 The right to regulate any automated decision-making and profiling of personal data.

8.Roles and responsibilities

All individuals identified in the scope of this policy have a responsibility to work in accordance with the policy and legislative requirements and ensure that they have sufficient training and competence on data protection. However, the following roles have specific accountabilities:

Managing Director

- Ensures that adequate resources are available for the implementation of data protection policies and procedures;
- Champions data protection and models good practice.

Data Protection Officer (DPO) Kerry Hill

- Monitors compliance with the GDPR and other data protection laws, including managing internal data protection activities, advising on data protection impact assessments; training staff and conducting internal audits;
- Advises and guides on the application of policy and procedure;
- Advises and guides on the application of Data Protection Impact Assessments;
- To be the first point of contact for the ICO and for individuals whose data is processed (employees, customers etc);
- Reporting data breaches to the ICO;
- Maintains and updates knowledge and expertise on data protection sufficient to effectively fulfil the role of DPO.

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Virtec - IT support

- Ensures that appropriate and adequate technical measures are in place to safeguard the security of data;

Training and Learning Manager

- Computer passwords are not shared with others
- Passwords for computer are not shared with unauthorised individuals
- Training files are locked away
- Certificates are saved in staff training files
- Phone calls which contain sensitive information are not being overheard by an unauthorised person
- Paperwork is not left lying around for others to see
- Office conversations are not inappropriately overheard
- Sensitive data is not given over the phone to an unauthorised person
- Sensitive data is disposed of in a timely and secure manner ensuring documents are shredded
- Arranges for the archiving of learner data and the disposal of data at the expiry of the data retention period
- Data is kept up to date
- All training records that are completed in relation to Opportunity Learning Academy are recognised as a legal, professional document and must be treated as such
- Sensitive data is disposed of in a timely and secure manner ensuring documents are shredded
- Data is kept up to date
- Overseeing trainers meet Data Protection Principles
- Ensure attendance registers are signed and handed to Learning and Training Manager
- Prior to handing out certificates, scan and print copy to store in training file – hand copy to Learning and Training Manager. If using case studies/examples do not use customer or colleagues real names

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Ensures that their staff are compliant with all data protection policies and procedures and that they are appropriately trained.

Breach notification

Where a data breach is likely to result in a risk to the rights and freedoms of individuals, it will be reported to the Information Commissioner within 72 hours of the Academy becoming aware of it and may be reported in more than one instalment.

Individuals will be informed directly in the event that the breach is likely to result in a high risk to the rights and freedoms of that individual.

If the breach is sufficient to warrant notification to the public, the Academy will do so without undue delay.

International data transfers

The Academy does not transfer personal data to any recipients outside of the UK.

External trainers will need to demonstrate Data Protection and GDPR training within past 3 years

Policy/Process Review Date

This policy/process is reviewed every 12 months with the next review date being 30th April 2023