

# Data Protection Policy

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**This Policy was adopted by the:  
Learn to Live Federation, CBT Governors, Summer Term 2018.  
To be reviewed Summer Term 2019.**

**This Policy must be read in conjunction with the following appendices:  
*Appendix A = Document Handling Protocol dated May 2018*  
*Appendix B = Electronic Data Protocol dated May 2018*  
*Appendix C = Security Incident/Data Loss Management Protocol dated May 2018*  
*Appendix D = Information Security Assessment as at May 2018***

**If this document has been printed please note that it may not be the most up-to-date version. For the current version please refer to the Intranet.**

## **1. Introduction**

- 1.1 This policy outlines the framework that governs how the Learn to Live Federation (“Federation”) and its staff must handle personal data to ensure compliance with the [EU General Data Protection Regulation](#) (GDPR) and associated data protection laws applicable in the UK.

## **2. Scope**

- 2.1 This policy applies to the processing of personal data which is defined by [article 4](#) of the GDPR, and to the processing of special categories of personal data defined by [article 9](#) of the GDPR.
- 2.2 This policy and its supporting guidance shall apply to all Federation employees, agency and temporary staff, contractors, members and third-party staff, who have access to information systems or information used for Federation purposes.
- 2.3 Where this policy reads “staff”, it should be read to include all the entities in paragraph 2.2.

## **3. Legislation**

- 3.1 The Federation processes a variety of personal data to enable us to deliver a range of services. Therefore, the Federation is required to comply with the GDPR as well as other supporting legislation which governs the processing of personal data.
- 3.2 When handling and managing information the Federation and its staff shall comply with other legislation in addition to the GDPR, to include but not limited to:
- [Computer Misuse Act 1990](#)
  - [Copyright Designs and Patents Act 1988](#)
  - [Environmental Information Regulations 2004](#)
  - [Equality Act 2010](#)
  - [Freedom of Information Act 2000](#)
  - [Human Rights Act 1998](#)
  - [Local Government Act 1972](#)
  - [Local Government Act 2000](#)
  - [Regulation of Investigatory Powers Act 2016](#)
  - [Re-use of Public Sector Information Regulations 2005](#)

## **4. Breach of this policy**

- 4.1 All reckless or deliberate breaches of this policy will be investigated and may be referred to the Human Resources Department who will consider whether disciplinary action should be taken against the member of staff concerned. Alleged breaches of this policy will also be investigated by the Data Protection Officer, Dave O’Loughlin, as an information security incident and may also be referred to Human Resources and senior management as considered necessary.

## 5. Policy Review

- 5.1 This policy will be reviewed by the Data Protection Officer on an annual basis. Formal requests for changes should be sent to the Data Protection Officer at [doloughlin@learntolivefederation.co.uk](mailto:doloughlin@learntolivefederation.co.uk)

## 6. Responsibilities

- 6.1 Responsibility for GDPR compliance rests with the Data Protection Officer, Executive Head and the Federation's Senior Information Risk Owner (SIRO) (nominated GDPR Governor). The Data Protection Policy and its supporting guides and standards are managed, maintained and communicated to staff by the Data Protection Officer.
- 6.2 The Federation's Information Asset Owners and Information Asset Administrators are responsible for ensuring that appropriate structures and procedures are in place to manage their information effectively. They are also responsible for ensuring that staff are made aware of, and comply with this policy, its associated standards and procedures. All staff are personally responsible for complying with this policy and supporting standards.

## 7. The Data Protection Principles

- 7.1 The GDPR is underpinned by six common-sense principles which governs the way the Federation must process personal data. These principles are outlined in [article 5](#) of the GDPR and are summarised below.
- Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject ('lawfulness, fairness and transparency').
  - Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.
  - Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation').
  - Personal data shall be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy').
  - Personal data shall be 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.
  - Personal data shall be 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, using appropriate technical or organisational measures ('integrity and confidentiality').
- 7.2 Sections 8 - 20 outlines the steps that staff must follow when processing personal data to ensure compliance with each of the principles listed above.

## **8. Lawful processing of personal data**

- 8.1 The Federation and its staff must process personal data fairly and will not process personal data or special categories of personal data unless one of the lawful grounds listed in the Federation Privacy notices apply.

## **9. Privacy notices**

- 9.1 When collecting personal data, the Federation will make available the information contained in our privacy notices. This may be available online and referenced on data capture forms, directly referenced on documentation or provided verbally. If the Federation receives personal data from third parties, we will ensure that the information contained in a privacy notice, is made available to a data subject as soon as practical. This will usually be at the first point we are required to communicate with the data subject.
- 9.2 Further advice on Privacy Notices is available on the Bidwell Brook School, Ellen Tinkham School and Learn to Live Federation websites. For more detailed assistance contact the Data Protection Officer, Dave O'Loughlin.

## **10. Consent**

- 10.1 The Federation is only required to obtain someone's consent if there is no other legal basis for processing their personal data. If we are required to obtain consent, we will ensure that the following requirements are met:
- The consent is freely given.
  - The person giving consent understands fully, what they are consenting to.
  - There must be a positive indication of consent (opt-in as opposed to opt-out).
  - The person giving consent must be able to withdraw their consent at any time.
  - Consent should be documented so that it may be referred to in the future, if necessary.
- 10.2 Children under the age of 13 merit specific protection regarding their personal data. Such specific protection should apply to the use of personal data of children for the purposes of marketing or creating personality or user profiles and the collection of personal data regarding children when using services offered directly to a child. If the Federation is required to deliver such services to children, it will ensure that the requirements of [article 8](#) of GDPR are met.

## **11. Rights of data subjects**

- 11.1 [Chapter 3](#) of the GDPR outlines the rights afforded individuals in respect of the processing of their personal data. These rights are summarised below;
- The right to transparency in respect of the processing of their personal data.
  - The right of subject access.
  - The right to rectification.
  - The right to erasure.
  - The right to restriction of processing.
  - The right to data portability.

- The right to object to processing.
- The right to request human intervention if processing is by automated means.

11.2 Requests to exercise any of these rights are managed by the Data Protection Officer, Dave O’Loughlin. The Federation’s procedures for managing such requests are available from the schools’ websites and shall be adhered to whenever the Federation receives a request from someone wishing to exercise these rights.

11.3 When designing, implementing or procuring systems or services, the Federation must ensure that those systems or services can allow members of the public to exercise any of the rights listed in section 11.1. Any systems or services found to be incapable of managing such requests, should be referred to the Data Protection Officer and must be subject to a privacy impact assessment.

## **12. Privacy by design**

12.1 [Article 29](#) of the GDPR creates a statutory obligation on the Live Federation to ensure that a privacy impact assessment is undertaken on all new systems, processes or procedures that intend to process personal data, prior to their implementation. Such assessments are to be carried out by or in consultation with the Data Protection Officer.

12.2 Compliance risks identified following a privacy impact assessment will be presented to the Executive Head and then the Senior Information Risk Owner (SIRO).

12.3 If following the completion of a privacy impact assessment, the Federation identifies processing activities assessed as high risk that cannot be mitigated to an acceptable level, the authority will consult with the Information Commissioner’s Office prior to implementing the proposed processing activity, system or process.

## **13. GDPR and procurement**

13.1 The Federation is committed to upholding the confidentiality, availability and integrity of information that is processed by our contractors on our behalf. Underpinning this commitment, we will ensure that the following measures are followed when procuring goods and services that involve the processing of personal data:

- A privacy impact assessment is undertaken prior to any procurement which involves the processing of personal data.
- A security questionnaire is completed to ascertain the technical and organisational measures that prospective contractors will put in place to protect the data that they will processing on behalf of the Federation. The results of which will inform on the final decision as to whether the Federation contracts with that organisation.

- When procuring goods and services that requires a formal procurement exercise, we will ensure that contractual provision is in place which clearly identifies the following; who is the data controller; what data is being processed; a record of processing activity (in accordance with [article 30](#) of the GDPR); arrangements for how personal data will be disposed of or returned to the Federation at the end of the contract; contractual clauses which mandate conformance to the GDPR.
- When procuring goods or services that do not require a formal procurement exercise, and which involve the processing of personal data, staff must consult with the Data Protection Officer and the ICT Manager at their local setting.

13.2 Where risks are identified during a formal or informal procurement process, these will be managed in consultation with the Data Protection Officer, the ICT Manager and Executive Head, then SIRO if required.

#### **14. Records of processing activity**

14.1 Information Asset Owners will ensure that records of the processing activity are maintained for all information assets under their direct responsibility. Such records will include the information required in [article 30](#) of the GDPR. Such records are to be made available to members of the public, the Information Commissioner's Office (or other supervisory authority as required) or the European Data Protection Board on request.

14.2 The Federation will have measures in place to ensure that data processors responsible for processing personal data on behalf of the Federation, will maintain records of processing as required by [article 30](#) of the GDPR.

#### **15. Security incident management and notification**

15.1 An information security incident can occur when the confidentiality, availability and or integrity of personal data is put at risk. Examples of activities considered an information security incident might include; information being at risk of or being lost; stolen; disclosed to the wrong recipients (accidentally or deliberately); accessed or attempted to be accessed unlawfully and/or without the permission of the Federation; sold or used without the permission of the Federation or a system containing personal data or sensitive business data malfunctions and the information is irretrievable indefinitely or for a long period of time.

15.2 The Federation has a clear procedure in place which governs how the Federation and its staff must report and handle incidents. This procedure must be followed at all times.

15.3 In accordance with [article 33](#) of the GDPR, the Federation is committed to notifying the Information Commissioner's Office or relevant supervisory authority within 72 hours, of being notified of an information security incident that might adversely affect the rights and freedoms of a data subject. Notifications of this nature are the responsibility of the Data Protection Officer, who will ensure that the risks associated with information security incidents are recorded, monitored and where appropriate escalated in accordance with the notification procedure in place.

## **16. The Data Protection Officer**

- 16.1 [Article 37](#) of the GDPR requires the Federation appoints a Data Protection Officer to undertake the tasks outlined in [article 39](#) of the GDPR. Contact details for the Data Protection Officer will be made publicly available and will be referred to in all privacy notices.
- 16.2 The Federation will commit to ensure that the Data Protection Officer is sufficiently resourced to undertake the tasks assigned to them under [article 39](#) of the GDPR. The Federation will also ensure that the Data Protection Officer is consulted on all matters which concern the processing of personal data.
- 16.3 The Data Protection Officer will act as the single point of contact for the Information Commissioner's Office or other relevant supervisory authorities and will ensure that compliance risks are reported to the highest level of management within the Federation as required.

## **17. Transfers outside the European Economic Area**

- 17.1 The Federation will not transfer personal data to countries outside of the European Economic Area (EEA) unless one or more of the following qualifying criteria are met:
- 1) An adequacy decision has been made in accordance with [article 45](#) of the GDPR.
  - 2) The transfer is the subject of appropriate safeguards in accordance with [article 46](#) of GDPR.
  - 3) The transfer is the subject of binding corporate rules in accordance with [article 47](#) of the GDPR.
  - 4) If one or more of the special circumstances outlined in [article 49](#) of the GDPR are met.
- 17.2 Any transfers of personal data to countries outside of the EEA will be subject of a privacy impact assessment prior to the transfer taking place. Decisions taken in respect of any transfers will be made in consultation with the Data Protection Officer and Executive Head.

## **18. Information and cyber-security**

- 18.1 The Data Protection Officer is responsible for the creation, communication and maintenance of the Federation's guidance on information security. This guidance will be routinely reviewed to ensure accuracy, with amended and new guidance communicated to staff on a regular basis.
- 18.2 Staff who are required to process personal data, in whatever format, must ensure that they follow the Federation's guidance on information security. If it is found that this guidance has not been followed, this will be treated as an information security incident and will be investigated in accordance with procedures. Where such actions are considered negligent, reckless or malicious, this will be referred to Human Resources for consideration as to the merits of disciplinary action.



- 18.3 Should it be considered necessary for staff to be excused from following the requirements outlined in any of the Federation's guidance on information security, authorisation would need to be obtained beforehand from the Data Protection Officer.
- 18.4 As part of the Federation's commitment towards information security, the Executive Leadership team have mandated that all staff must undertake relevant training. This training must be refreshed by all staff every two years.
- 18.5 The Federation's ICT infrastructure is routinely the subject of cyber-attacks by various threat actors. To combat the risks associated with these threats, the Federation has adopted a Cyber Security Policy which must be followed at all times to ensure that the risk of a successful attack on the Federation's ICT infrastructure is monitored, managed and where possible reduced.

## **19. Sharing personal information**

- 19.1 The Federation will only share personal data contained in its records with individuals who have a legitimate and legal right to view or receive it. Disclosures of personal data shall be proportionate and necessary and made in line with the Federation's policies and procedures. All disclosures shall comply with the [GDPR](#) and associated data protection legislation, [Human Rights Act 1998](#) and Common Law Duty of Confidence. More information about how and when to share information is available on the [Knowing When to Share website](#).

## **20. Information assurance, compliance and reporting**

- 20.1 The Federation will have in place, an information assurance framework to aid in the identification, management and ownership of information risks.
- 20.2 All information risks identified when working with services, following privacy impact assessments or from information security investigations, will be managed by the Data Protection Officer. Compliance risks that are identified will be monitored by the Data Protection Officer and reported on a regular basis to the Executive Head and Senior Information Risk Owner (SIRO).

## **21. Policy History**

- 21.1 This Policy is maintained by the Data Protection Officer and will be reviewed annually. For help in interpreting this policy, contact Dave O'Loughlin on 01392 467168 or [doloughlin@learntolivefederation.co.uk](mailto:doloughlin@learntolivefederation.co.uk)