

The Learners Collective – Data Protection Procedures

Statement Authorised By:	
DPO Officer	Miss Ruth Obude
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Introduction

All organisations that process *personal data* are required to comply with data protection legislation. This includes in particular the Data Protection Act (or its successor) and the UK General Data Protection Regulation (together the 'Data Protection Laws'). The Data Protection Laws give individuals (known as 'data subjects') certain rights over their *personal data* while imposing certain obligations on the organisations that process their data.

As a recruitment business, The Learners Collective (TLC) collects and processes both *personal data* and *special categories of personal data*. In some cases, it is required to do both so to comply with other legislation. It is also required to keep this data for different periods depending on the nature of the data.

This policy sets out TLC's procedures for implementing the Data Protection Laws. It should be read in conjunction with the Data Protection Policy.

Definitions

In this policy the following terms have the following meanings:

'consent': means 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 them;

'data controller': means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of processing of personal data;

'data processor': means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

'data subject': means the identified or identifiable living individual whose personal data is processed;

'personal data': means any information relating to an data subject; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

'personal data breach': means 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.

‘processing’: means 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.

‘profiling’: means any form of automated *processing of personal data* consisting of the use of *personal data* to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person’s performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;

‘pseudonymisation’: means 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, provided that additional information is kept separately and is subject to technical and organisational measures to ensure that the *personal data* are not attributed to an identified or identifiable natural person;

‘special categories of personal data’: means the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, and the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation’.

‘The Commissioner’: means the Information Commissioner. The Information Commissioner’s Office is the UK’s independent body set up to uphold information rights.

TLC processes personal data in relation to its own staff, tutors, and individual client contacts and is a data controller for the purposes of the Data Protection Laws. TLC has registered with the ICO and its registration number is ZA797146.

TLC may hold personal data on individuals for the following purposes:

- Staff administration;
- Advertising, marketing and public relations;
- Accounts and records;
- Administration and processing of work-seekers’ personal data for the purposes of providing work-finding services, including processing using software solution providers and back office support; and
- Administration and processing of clients’ personal data for the purposes of supplying/introducing work-seekers.

Data Processing under the Data Protection Laws

TLC will only process personal data where it has a legal basis for doing so (see Annex A). Where TLC does not have a legal reason for processing personal data any processing will be a breach of the Data Protection Laws.

Information Security

Only those listed in the Appendix are permitted to add, amend or delete personal data from TLC’s database(s) (‘database’ includes paper records or records stored electronically).

All TLC staff are responsible for notifying those listed in the Appendix in instances where information is known to be old, inaccurate or out of date or a request for erasure, access, rectification or restriction of processing has been received from the individual. TLC staff are also responsible for notifying those listed in the Appendix where any request for data portability, objection to the processing or where consent to process has been withdrawn and has been received from the individual.

The incorrect processing of personal data e.g. sending an individual's details to the wrong person, allowing an unauthorised person access to personal data, sending information out for purposes for which the individual did not give his or her consent, or not having lawful reason to process personal data, may give rise to a breach of contract and/or negligence leading to a claim against TLC for damages from an employee, work-seeker or client contact.

In addition, all TLC staff should ensure that adequate security measures are in place to limit the risk of personal data breaches. For example:

- Staff should lock their computer screens when they are not in use.
- All personal data collected via a company or personal device for the purposes of providing TLC's services should be processed through our CRM.
- Staff should not disclose their passwords to anyone.
- Email should be used with care. Company staff must ensure that emails are sent only to the intended recipient(s). Where TLC staff send an email in error, that email must be recalled immediately and TLC staff must inform those listed in the Appendix of the error so that any risk of a personal data breach can be limited.
- Personnel files (whether for internal staff or work-seekers) and other personal data should be stored securely to prevent unauthorised access. They should not be removed from their usual place of storage without good reason.
- As a paperless company, it goes against employee guidelines to print any customer data.
- Personal data should only be stored for the periods set out in TLC's data retention policy.
- Processing includes the destruction or disposal of personal data. Therefore, staff should take care to destroy or dispose of personal data safely and securely. Such material should be shredded or stored as confidential waste awaiting safe destruction.

Rights of the Individual

An individual has the following rights under the Data Protection Laws:

1. The right to be informed of what information TLC holds on them and how it is processed – this is typically given to the individual in a privacy notice;
2. The right of access to any personal data that TLC holds on them – this is usually referred to as a 'subject access request' but the individual is free to use any wording to request their personal data;
3. The right to rectification of personal data that the individual believes is either inaccurate or incomplete;
4. The right to the erasure of their personal data in certain circumstances;
5. The right to restrict the processing of their personal data;
6. The right to data portability of their personal data in specific circumstances;
7. The right to object to the processing of their personal data where it is based on either a legitimate interest or a public interest or the processing is for direct marketing;
8. The right not to be subjected to automated decision-making and profiling, which produced legal effects concerning him or her or similarly significantly affects him or her; and

9. The right to withdraw consent where it was relied upon to process their personal data.

The Right to be Informed

Any individual whose personal data is processed by TLC will have the right to be informed about such processing. They will have the right to be informed about who, what, where, when and why the data is processed. This information should be delivered in a privacy notice, in writing and where appropriate electronically and/or in recorded format. Depending on where the personal data is being collected, an individual may be directed to TLC’s website privacy notice or be given a copy of a privacy notice. This privacy notice should be issued in instances where either:

- a) TLC collects/processes data directly from the individual; or
- b) TLC has not collected/processed the data from the individual directly.

The privacy notice should include the information set out in Table 1 (below).

In addition:

- a) Where personal data has been collected **from the individual** the privacy notice will need to be issued at the point the data is collected. Where TLC intends to further process the personal data beyond what the individual was advised, TLC shall provide him or her, prior to that further processing, with information on that other purpose and with any relevant further information in an updated privacy notice.
- b) Where personal data has **not been obtained from the individual**, TLC shall provide the privacy notice within a reasonable period after obtaining the personal data, but at the latest within one month, having regard to the specific circumstances in which the personal data are processed. If the personal data are to be used to communicate with the individual, then the privacy notice will be issued at the latest at the time of the first communication with the individual. If a disclosure to another recipient is envisaged, then at the latest the privacy notice will be issued to the individual when the personal data are first disclosed.

TLC staff will be responsible for issuing privacy notices to individuals whose personal data is processed by TLC in the timeframes and circumstances mentioned above.

Table 1: Privacy Information to be given to the individual

	Where TLC collects data from the individual	Where personal data has not been obtained from the individual
The identity and contact details of TLC and where applicable the controller’s representatives if you are based outside of the EU (but you monitor or offer services to people in the EU) and/or data protection officer.	Yes (Y)	Y
The purposes of processing and the lawful basis for the processing.	Y	Y

The legitimate interest of the data controller or third party, where applicable	Y	Y
The categories of personal data	No (N)	Y
Recipients or categories of recipients of personal data, where applicable.	Y	Y
Recipients or categories of recipients of personal data, where applicable	Y	Y
Details of transfers of personal data to countries or international organisations outside the EU and stating whether the transfer is made on the basis of an adequacy decision by the European Commission, where applicable.	Y	Y
The retention period/s of the personal data or the criteria used to determine the retention period	Y	Y
The existence of individual rights, including the right of access, rectification, erasure, restriction of processing, objection to processing and the right to data portability.	Y	Y
The existence of the right to withdraw consent where it has been given and relied upon.	Y	Y
The right to lodge a complaint with the Information Commissioner's Office.	Y	Y
The source of the personal data and whether it came from publicly accessible sources	N	Y
Whether the individual is under a statutory or contractual obligation to provide their personal data and the possible consequences of failing to provide that personal data	Y	N
The existence of solely automated decision-making, including profiling, that has legal or similarly significant effects on the individual; and gives meaningful information about the logic involved in the process, as well as the	Y	Y

significance and the envisaged consequences of such processing.		
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The Right to Access ('Subject Access Request')

Individuals are entitled to obtain access to their personal data on request, free of charge except in certain circumstances.

An individual will be entitled to the following information:

- Confirmation that their personal data is or is not being processed;
- Access to the personal data undergoing processing;
- The purposes of the processing;
- The categories of personal data concerned;
- The recipients or categories of recipient to whom the personal data has been or will be disclosed, in particular recipients in third countries or international organisations;
- Where possible, the envisaged period for which the personal data will be stored or, if not possible, the criteria used to determine that period;
- The existence of the right to request from TLC rectification or erasure of personal data or restriction of processing of personal data concerning the individual or to object to such processing;
- The right to lodge a complaint with the ICO;
- Where the personal data is not collected from an individual, any available information as to the source of that information;
- The existence of automated decision-making, including profiling, based on a public interest or a legitimate interest and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the individual.

If TLC transfers the individual’s personal data to a third country or to an international organisation outside the EU, the individual shall have the right to be informed of the appropriate safeguards in place relating to the transfer.

If TLC processes a large quantity of information concerning the individual making the request, TLC might request that the individual specify the information or processing activities to which the request relates specifically before the information is delivered. If such a request is required by TLC then it shall be delivered promptly to the individual, taking into consideration the timeframes that subject access requests must be completed.

The individual’s right to access their information shall not adversely affect the rights and freedoms of others and they will not be able to access the personal data of third parties without the explicit consent of that third party or if it is reasonable in all the circumstances to comply with the request without that third party’s consent, taking into consideration any means to redact the personal data of any third party. Persons listed in the Appendix will decide whether it is appropriate to disclose the information to the individual on a case-by-case basis. This decision will involve balancing the individual’s right to access their personal data against the third party’s rights in respect of their own personal data.

Note: an individual might not label their subject access request using those specific words. Therefore, TLC staff should always consider whether a request is a subject access request even when those exact words are omitted. If in doubt, refer to the persons listed in the Appendix for further clarification.

The Right to Rectification

An individual, or another data controller acting on an individual's behalf, has the right to obtain from TLC rectification of inaccurate or incomplete personal data concerning him or her. TLC must act on this request without undue delay.

Taking into account the purposes of the processing, the individual shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement stating what they would require to be completed.

TLC shall communicate any rectification of personal data to each recipient to whom the personal data have been disclosed unless this proves impossible or involves disproportionate effort. TLC shall inform the individual about those recipients if he or she requests it.

Where TLC, acting as a data processor, receives information from a data controller to rectify an individual's personal data, then TLC shall comply with this request unless this proves impossible or involves a reasonably disproportionate effort.

In circumstances where TLC is unable to comply with the request as it proves impossible or involves reasonably disproportionate effort, TLC will document this in a privacy impact assessment or similar.

The Right to Erasure

An individual shall have the right to obtain from TLC, acting as data controller, the erasure of personal data concerning him or her without undue delay. TLC will be obliged to erase the individual's personal data without undue delay where one of the following grounds apply:

- The personal data is no longer necessary in relation to the purposes for which it was originally collected or otherwise processed;
- An individual withdraws consent on which the processing is based, and where there is no other legal ground for the processing;
- An individual objects to the processing based on a legitimate interest and there are no overriding legitimate interest grounds to continue the processing or individual objects to the processing for direct marketing purposes (including profiling related to direct marketing);
- The personal data has been unlawfully processed;
- The personal data has to be erased for compliance with a legal obligation; or
- The personal data has been collected in relation to the offer of information society services to a child.

Where TLC, acting as data controller, has made the personal data public and is obliged to erase that personal data, TLC, taking into account available technology and the cost of implementation, shall take reasonable steps, including technological measures, to inform data controllers which are processing the personal data that an individual has requested the erasure by such controllers of any links to, or copy or replication of, those personal data. TLC will not be obliged to erase information to the extent that processing is necessary:

- For exercising the right of freedom of expression and information;
- For compliance with a legal obligation to which the data controller is subject or for the performance of a task in the public interest;
- For reasons of public interest in the area of public health;

- For archiving purposes in the public interest, scientific or historical research purposes or statistical purposes; or
- For the establishment, exercise or defence of legal claims.

TLC shall communicate any erasure of personal data to each recipient to whom the personal data have been disclosed unless this proves impossible or involves reasonably disproportionate effort. TLC shall inform the individual about those recipients if an individual requests it.

Where TLC, acting as a data processor, receives information from a data controller to erase an individual's personal data TLC shall comply with this request unless this proves impossible or involves reasonably disproportionate effort.

In circumstances where TLC is unable to comply with the request as it proves impossible or involves reasonably disproportionate effort, TLC will document this in a privacy impact assessment or similar.

The Right to Restrict Processing

An individual will have the right to obtain from TLC acting as a data controller, the restriction of processing his or her personal data where one of the following applies:

- The accuracy of the personal data is contested by the individual, for a period enabling TLC to verify the accuracy of the personal data;
- The processing is unlawful, and the individual opposes the erasure of the personal data and requests the restriction of their use instead;
- TLC no longer needs the personal data for the purposes of the processing, but the individual requires the personal data for the establishment, exercise or defence of legal claims;
- The individual has objected to the processing (on the grounds of public interest or legitimate interest) pending the verification of whether the legitimate grounds of TLC override those of the individual.

Where processing has been restricted, such personal data shall, with the exception of storage, only be processed with the individual's consent or for the establishment, exercise or defence of legal claims or for the protection of the rights of another natural or legal person or for reasons of important public interest.

Where an individual has successfully asked for their personal data to be restricted, TLC will inform the individual before such a restriction is lifted.

TLC shall communicate any restriction of processing to each recipient to whom the personal data has been disclosed unless this proves impossible or involves reasonably disproportionate effort. TLC shall inform the individual about those recipients if he or she requests it.

Where TLC, acting as a data processor, receives information from a data controller to restrict the processing of an individual's personal data, TLC shall comply with this request, unless this proves impossible or involves reasonably disproportionate effort.

In circumstances where TLC is unable to comply with the request as it proves impossible or involves disproportionate effort, we will document this in a privacy impact assessment or similar.

The Right to Data Portability

An individual has the right to receive any personal data concerning him or her, which he or she has provided to TLC, in a structured, commonly used and machine-readable format and has the right to transmit those data to another data controller where:

- The processing is based on the individual's consent or a contract; and
- The processing is carried out by automated means.
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TLC staff will advise those listed in the Appendix when they receive a request to port data. Those listed in the Appendix will be responsible for identifying if the above circumstances are satisfied for the purposes of porting the data to the individual and/or another data controller.

For the avoidance of doubt, there is no obligation to port personal data that is not kept by automated means by TLC.

The Right to Object to Processing

An individual, has the right to object to their personal data being processed or profiled based on a public interest or a legitimate interest.

Where TLC receives an objection to processing or profiling on the above grounds, those listed in the Appendix will ensure that the processing and/or profiling ceases unless such persons can establish compelling grounds to continue to process the personal data. If this is the case those persons listed in the Appendix will document this in a privacy impact assessment or similar.

Individuals also have the right to object to their personal data being processed for the purposes of direct marketing.

Automated Decision-Making Processes

An individual has the right not to be subjected to an automated decision-making process, including profiling, that produces a legal effect or a similarly significant effect on the individual.

However, it is possible to subject an individual to automated decision-making processes, including profiling, where:

- a) It is necessary for entering into or performing a contract between the employer and the individual;
- b) It is authorised by law; or
- c) The individual has given their explicit consent.

Where a) and c) apply TLC will ensure that suitable measures are in place to safeguard the individual's rights and freedoms and legitimate interests, under both Data Protection Laws and the Human Rights Act 1998, before this type of processing occurs for personal data.

Where a) to c) apply TLC will only process sensitive personal data where the Company has received either explicit consent to do so or there is a substantial public interest to do so. Again, TLC will ensure that suitable measures are in place to safeguard the individual's rights and freedoms and legitimate interests, under both Data Protection Laws and the Human Rights Act 1998, before this type of processing occurs for sensitive personal data.

The safeguarding measures include:

- Conducting a risk assessment as to what risks are posed to the individual's rights and freedoms;
- Ensuring where the automated decision-making process is necessary for entering into or performing a contract that this is documented clearly by TLC; and
- Ensuring where explicit consent is given that this is document clearly by TLC.

TLC staff will be responsible for implementing the above safeguarding measures.

The Right to Withdraw Consent

Where TLC relies on an individual's consent to process their personal data then we will advise the individual that they have the right to withdraw his or her consent at any time.

Any TLC staff who receives a request from an individual to withdraw their consent to processing their data will be responsible for issuing the individual with our withdrawal of consent form and notifying our DPO. Once the form has been completed it should be given to the persons listed in the Appendix to process the individual's request further.

Timing and Information to be Provided to the Individual

TLC shall provide information on action taken or not taken with regards to the individual data protection rights, set out in paragraphs 1 to 9 inclusive, without undue delay and in any event within one month of receipt of the request. Where TLC does take action, then it may, where necessary, extend this period by a further two months, taking into account the complexity and number of the requests. Those persons listed in the Appendix shall inform an individual of any extension within one month of receipt of the request, together with the reasons for the delay. Where TLC does not take action on the request of the individual then those persons listed in the Appendix will inform him or her of the possibility of lodging a complaint with the ICO and seeking a judicial remedy.

Where TLC receives a subject access request from an individual but requires further information to establish the identity of the requester, the one-month time limit will start when confirmation has been received.

Charges

Where requests from an individual are manifestly unfounded or excessive, in particular because of their repetitive character, TLC may either:

- Charge a reasonable fee taking into account the administrative cost of providing the information or communication or taking the action requested; or
- Refuse to act on the request.

TLC must demonstrate whether the request is manifestly unfounded or excessive. Those listed in the Appendix will be responsible for demonstrating this.

Where the individual makes the request by electronic means, TLC shall provide the information in a commonly used electronic form, unless otherwise requested by the individual.

Personal Data Breaches

TLC will need to act on any personal data protection breach it suspects or knows of when acting as either a data controller or a data processor.

TLC staff must inform those persons listed in the Appendix where a personal data breach has either been reported to him or her, or they themselves have identified a personal data breach.

Personal Data Breaches where TLC is the Data Controller

Those listed in the Appendix will take measures to establish whether or not a personal data breach has occurred. Those persons will:

- Conduct a risk assessment as to what level of risk the personal data breach poses/has occurred;
- Conduct any relevant interviews or investigations of our practices and/or company staff to assess how the personal data breach occurred;
- Implement measures and take steps to limit, contain and recover the breach.

Unless the personal data breach is unlikely to result in a risk to the rights and freedoms of an individual, then those listed in the Appendix will be responsible for alerting the ICO of any personal data breach without undue delay, but no later than 72 hours after having become aware of the Company's personal data breach. Where it is not possible to inform the ICO in this time those listed in the Appendix will be responsible for explaining to the ICO the reasons for the delay.

If the personal data breach happens outside the UK, then those listed in the Appendix will be responsible for alerting the relevant authority in the relevant jurisdiction.

If those listed in the Appendix are not able to provide the ICO/other relevant authorities with all the relevant information related to the personal data breach, then those persons shall provide the information in phases without undue further delay.

Those listed in the Appendix will be responsible for documenting any personal data breaches, including:

- The facts relating to the personal data breach – including any investigations undertaken or statements taken from the company staff;
- The effects of the personal data breach; and
- The remedial action is taken.

Those listed in the Appendix will also be responsible for keeping a record of any personal data breaches, regardless of whether TLC is required to notify the ICO, a relevant authority or the individuals concerned in the personal data breach.

Personal Data Breaches where TLC is the Data Processor

Those listed in the Appendix will be responsible for alerting the relevant data controller as to the personal data breach that has been identified as soon as they are aware of the breach, having particular regard to any contractual obligations TLC has with the data controller.

Communicating Personal Data Breaches to Individuals

Where a personal data breach has been identified, which results in a high risk to the rights and freedoms of individuals, those listed in the Appendix will be responsible for informing those individuals affected by the personal data breach without undue delay.

For the avoidance of doubt, there will be no need to inform individuals of a personal data breach where:

- TLC has implemented appropriate technical and organisational protection measures to use the personal data affected by the breach, in particular, to make the personal data unintelligible to any person who is not authorised to access it, such as encryption.
- TLC has taken subsequent measures which ensure that the high risk to the rights and freedoms of the individual is no longer likely to materialise.
- It would involve a disproportionate effort to tell all affected individuals. Instead, those listed in the Appendix shall, on behalf of TLC, make a public communication or similar measure to tell all affected individuals.

Actions to Take After a Breach

Where there is a likely risk to individuals as a result of the breach

Where there is a high risk to individuals as a result of the breach

Inform the ICO

Notify the individuals concerned as soon as is reasonably feasible

Where a data controller notifies the ICO of a possible breach, it must do the following:

- Describe the nature of the personal data breach including, where possible, the categories and the number of individuals concerned.
- Give the name and contract details of the DPO.
- Describe the likely consequences of the personal data breach.
- Describe the measures taken to address the personal data breach.

When notifying individuals:

- Describe the nature of the personal data breach.
- Give the name and details of the DPO.
- Describe the likely consequences of the personal data breach.
- Describe the measures taken to address the personal data breach.

The main purpose behind notifying an individual of a breach is to outline the specific steps they should take to protect themselves.

Record Keeping

Those listed in the Appendix will keep written records of the processing activities of TLC. The records must be in writing (which can be in electronic form) and must include the following information:

- The name and contact details of the data controller or data controller's representative and any joint controllers;
- The purposes of the processing;
- A description of the categories of the data subjects and of the categories of the personal data;
- The categories of recipients to whom personal data have or will be disclosed to, including to those internationally;
- Any transfers of personal data internationally, including the identification of the third country or international organisation to which the data is transferred;
- The envisaged time limits placed on an individual's right to erasure; and
- Where possible, a description of the technical and security measures that have been utilised to alleviate data-related risks.

Complaints

Where TLC staff receive a complaint from an individual about the use of his or her personal data, they should bring this to the immediate attention of those listed in the Appendix.

APPENDIX

Owais Yasin, DPO is responsible for the following:

- Adding, amending or deleting personal data;
- Responding to subject access requests/requests for rectification, erasure, restriction data, portability, objection, automated decision-making processes and profiling and withdrawal of consent;
- Reporting personal data breaches/dealing with complaints; and/or
- Details of the DPO where applicable.