

## The Learners Collective – Data Protection Policy

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 how TLC implements the Data Protection Laws. It should be read in conjunction with the Data Protection Procedure.

### 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 [see Note 1];

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.

### **The Data Protection Principles**

The Data Protection Laws require TLC to act as either a data controller or data processor to process data in accordance with the principles of data protection. These require that personal data is:

1. Processed lawfully, fairly, and in a transparent manner;
2. Collected for specific and legitimate purposes and not further processed in a manner that is incompatible with these purposes;
3. Adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed;

4. Accurate and kept up-to-date; that every reasonable step is taken to ensure that personal data that is inaccurate, having regard to the purposes for which they are processed, is erased or rectified without delay;
5. Kept for no longer than is necessary for the purposes for which the personal data is 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, using appropriate technical or organisational measures; and that
7. The data controller shall be responsible for, and is able to demonstrate, compliance with the principles.

### **Legal Bases for Processing**

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.

TLC will review the personal data that it holds on a regular basis to ensure it is being lawfully processing and it is accurate, relevant, and up-to-date and those people listed in the Appendix shall be responsible for doing this.

Before transferring personal data to any third party (such as a past, current, or prospective employers, suppliers, customers and clients, intermediaries such as umbrella companies, persons making an enquiry or complaint and any other third party (such as software solution provider and back office support)) TLC will establish that it has a legal reason for making the transfer.

### **Privacy by Design and By Default**

TLC has implemented measures and procedures that adequately protect the privacy of individuals and ensures that data protection is integral to all processing activities. This includes implementing measures such as:

- Data minimisation (i.e., not keeping data for longer than is necessary);
- Pseudonymisation;
- Anonymisation; and
- Cyber Security.

TLC shall provide any information relating to the data processing of an individual in a concise, transparent, intelligible and easily accessible form, using clear and plain language. The information shall be provided in writing, or by other means, including, where appropriate, by electronic means. TLC may provide this information orally if requested to do so by the individual.

### **Privacy Notices**

Where TLC collects personal data from the individual, TLC will give the individual a privacy notice at the time when it first obtains the personal data.

Where TLC collects personal data other than from the individual directly, it will give the individual a privacy notice within a reasonable period after obtaining the personal data, but at the latest within one month. If TLC intends to disclose the personal data to a third party, then the privacy notice will be issued when the personal data is disclosed (if not issued sooner).

Where TLC intends to further process the personal data for a purpose other than that for which the data was initially collected, TLC will give the individual information on that other purpose and any relevant further information before it does the further processing.

### **Subject Access Requests**

The individual is entitled to access their personal data on request from the data controller.

### **Rectification**

The individual or another data collector at the individual's request has the right to ask TLC to rectify any inaccurate or incomplete personal data concerning that individual.

If TLC has given the personal data to any third party, it will tell those third parties that it has received a request to rectify the personal data unless this proves impossible or involves a reasonably disproportionate effort. Those third parties should also rectify the personal data they hold – however, TLC will not be in a position to audit those third parties to ensure that the rectification has occurred.

### **Erasure**

The individual or another data collector at the individual's request has the right to ask TLC to erase that individual's personal data.

If TLC receives a request to erase it will ask the individual if they want their personal data to be removed entirely or whether they are happy for their details to be kept on a list of individuals who do not want to be contacted in the future (for a specified period or otherwise). TLC cannot keep a record of individuals whose data it has erased so the individual may be contacted against should we come into possession of the individual's personal data at a later date.

If TLC has made the data public, it shall take reasonable steps to inform other data controllers or data processors processing the personal data to erase the personal data, taking into account available technology and the cost of its reasonable implementation.

If TLC has given the personal data to any third party, it will tell those third parties that it has received a request to erase the personal data unless this proves impossible or involves a reasonably disproportionate effort. Those third parties should also rectify the personal data they hold – however, TLC will not be in a position to audit those third parties to ensure that the erasure has occurred.

### **Restriction of Processing**

The individual or another data collector at the individual's request has the right to ask TLC to restrict its processing of an individual's personal data where:

- The individual challenges the accuracy of the personal data;
- The processing is unlawful and the individual opposes its erasure;
- TLC no longer needs the personal data for the purposes of the processing, but the personal data is required for the establishment, exercise or defence of legal claims; or
- The individual has objected to processing (on the grounds of a public interest or legitimate interest) pending the verification whether the legitimate grounds of TLC override those of the individual.

If TLC has given the personal data to any third party, it will tell those third parties that it has received a request to restrict the personal data unless this proves impossible or involves a reasonably disproportionate effort. Those third parties should also rectify the personal data they hold – however, TLC will not be in a position to audit those third parties to ensure that the restriction has occurred.

### **Data Portability**

The individual has the right to receive the personal data concerning them, or which they have provided to TLC, in a structured, commonly used and machine-readable format and have the right to transmit that data to another controller in circumstances where:

- The processing is based on the individual's consent or a contract; and
- The processing is carried out by automated means.

Where reasonably feasible, TLC will send the personal data to a named third party at the individual's request.

### **Restriction of Processing**

The individual has the right to object to their personal data being processed based on a public interest, the exercise of official authority vested in them, or a legitimate interest (or those of a third party).

TLC shall cease processing unless it has compelling legitimate grounds to continue to process the personal data which overriding the individual's interests, rights and freedoms or for the establishment, exercise or defence of legal claims.

The individual has the absolute right to object to the processing of their personal data for direct marketing.

### **Enforcement of Rights**

All requests regarding individual rights should be sent to the person whose details are listed in the Appendix.

TLC shall act upon any subject access request, or any request relating to rectification, erasure, restriction, data portability, or objection or automated decision-making processes or profiling within one month of receipt of the request. TLC may extend this period for two further months where it deems necessary, taking into account the complexity and the number of requests.

Where TLC considers that the request under this section is manifestly unfounded or excessive due to the request's repetitive nature, TLC may either refuse to act on the request or may charge a reasonable fee taking into account the administrative costs involved.

### **Automated Decision-Making**

TLC will not subject individuals to decisions based on automated processing that produce a legal effect or to a similarly significant effect on the individual, except where the automated decision:

- Is necessary for the entering into or performance of a contract between the data controller and the individual;
- Is authorised by law; or
- The individual has given their explicit consent.

TLC will not carry out any automated decision making or profiling using the personal data of a child.

### **Reporting Personal Data Breaches**

All data breaches should be referred to our DPO, Owais Yasin: [GDPR@learnerscollective.com](mailto:GDPR@learnerscollective.com)

#### ***Personal Data Breaches Where TLC is the Data Controller***

Where TLC establishes that a personal data breach has taken place, TLC will take steps to contain and recover the breach. Where a personal data breach is likely to result in a risk to the rights and freedoms of any individual, TLC will notify the ICO and, where necessary, the individual(s) concerned.

Where the personal data breach happens outside the UK, TLC shall alert the relevant authority for data breaches in the relevant jurisdiction.

#### ***Personal Data Breaches Where TLC is the Data Processor***

TLC will alert the relevant data controller as to the personal data breach as soon as it is aware of the breach.

#### ***Communicating Personal Data Breaches to Individuals***

Where TLC has identified a personal data breach resulting in a high risk to the rights and freedoms of any individual, TLC shall inform all affected individuals without undue delay.

All individuals have the following rights under the Human Rights Act 1998 (HRA) and in dealing with personal data these should be respected at all times:

- Right to respect for private and family life (Art 8)
- Freedom of thought, belief and religion (Art 9)
- Freedom of expression (Art 10)
- Freedom of assembly and association (Art 11)
- Protection from discrimination in respect of rights and freedoms under the HRA (Art 14)

## **APPENDIX – ANNEX A**

### ***The Lawfulness of Processing Conditions for Personal Data***

1. **Consent:** the individual has given clear consent for you to process their personal data for a specific purpose.
2. **Contract:** the processing is necessary for the performance of a contract with the data subject or in order to take specific steps before entering into such a contract.
3. **Legal Obligation:** the processing is necessary for compliance with a legal obligation to which the data controller/data processor is subject.

4. **Vital Interest:** the processing is necessary to protect someone's life.
5. **Public Task:** the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official functions, and the task or function has a clear basis in law.
6. **Legitimate Interests:** the processing is necessary for the legitimate interests pursued by the data controller or a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

### ***The Lawfulness of Processing Conditions for Special Categories of Personal Data***

1. The data subject has given explicit consent to the processing of the special categories of personal data for one or more specified purposes, except where the data subject is not permitted or able to give consent.
2. Processing is necessary for carrying out obligations and exercising specific rights of the data controller or of the data subject under employment, social security or social protection law, in so far as it is authorised by UK law or a collective agreement, provided for appropriate safeguards for the fundamental rights and interests of the data subject.
3. Processing is necessary to protect the vital interests of the data subject or another person where the data subject is physically or legally incapable of giving consent.
4. Processing is carried out in the course of its legitimate activities with appropriate safeguards by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim and on condition that the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes and that the personal data are not disclosed outside that body without the consent of the data subject(s).
5. Processing relates to personal data which manifestly made public by the data subject.
6. Processing is necessary for the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity.
7. Processing is necessary for reasons of substantial public interest on the basis of English law which is proportionate to the aim pursued, respects the essence of the right to data protection and provides for suitable and specific measures to safeguard the fundamental rights and interests of the data subject domestic law.
8. Processing is necessary for the purposes of preventative or occupational medicine, for assessing the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or management of health or social care systems and services on the basis of English law or a contract with a health professional and subject to relevant conditions and safeguards.
9. Processing is necessary for reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices on the basis of English law.
10. Processing is necessary for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes, which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and interests of the data subject.