

## Free2Learn Data Protection Policy

### TABLE OF CONTENTS

1. OVERVIEW .....	1
2. ABOUT THIS POLICY .....	2
3. DEFINITIONS .....	2
4. FREE2LEARN PERSONNEL’S GENERAL OBLIGATIONS.....	3
5. DATA PROTECTION PRINCIPLES.....	4
6. LAWFUL USE OF PERSONAL DATA .....	4
7. TRANSPARENT PROCESSING – PRIVACY NOTICES .....	5
8. DATA QUALITY – ENSURING THE USE OF ACCURATE, UP TO DATE AND RELEVANT PERSONAL DATA.....	5
9. PERSONAL DATA MUST NOT BE KEPT FOR LONGER THAN NEEDED .....	6
10. DATA SECURITY .....	6
11. DATA BREACH .....	6
12. APPOINTING CONTRACTORS WHO ACCESS FREE2LEARN’S PERSONAL DATA ...	7
13. INDIVIDUALS’ RIGHTS .....	8
14. MARKETING AND CONSENT .....	9
15. AUTOMATED DECISION MAKING AND PROFILING .....	10
16. DATA PROTECTION IMPACT ASSESSMENTS (DPIA) .....	10
17. TRANSFERRING PERSONAL DATA TO A COUNTRY OUTSIDE THE EEA .....	11

### 1. OVERVIEW

Free2Learn’s reputation and future growth are dependent on the way Free2Learn manages and protects Personal Data. Protecting the confidentiality and integrity of Personal Data is a key responsibility of everyone within Free2Learn.

As an organisation that collects, uses and stores Personal Data about its employees, suppliers, students and visitors, Free2Learn recognises that having controls around the collection, use, retention and destruction of Personal Data is important in order to comply with Free2Learn’s obligations under Data Protection Laws and in particular its obligations under Article 5 of GDPR.

Free2Learn has implemented this Data Protection Policy to ensure all Free2Learn Personnel are aware of what they must do to ensure the correct and lawful treatment of Personal Data. This will maintain confidence in Free2Learn and will provide for a successful working and learning environment for all.

Free2Learn Personnel will receive a copy of this Policy when they start and may receive periodic revisions of this Policy. This Policy does not form part of any member of Free2Learn Personnel’s contract of employment and Free2Learn reserves the right to change this Policy at any time. All members of Free2Learn Personnel are obliged to comply with this Policy at all times.

If you have any queries concerning this Policy, please contact our Data Protection Officer, who is responsible for ensuring Free2Learn's compliance with this Policy.

## 2. ABOUT THIS POLICY

This Policy (and the other policies and documents referred to in it) sets out the basis on which Free2Learn will collect and use Personal Data either where Free2Learn collects it from individuals itself, or where it is provided to Free2Learn by third parties. It also sets out rules on how Free2Learn handles uses, transfers and stores Personal Data.

It applies to all Personal Data stored electronically, in paper form, or otherwise.

## 3. DEFINITIONS

- 3.1. **Free2Learn** – Free2Learn, 263 Mare Street, London, E8 3NS
- 3.2. **Free2Learn Personnel** – Any Free2Learn employee, worker or contractor who accesses any Free2Learn Personal Data and will include employees, consultants, contractors, and temporary personnel hired to work on behalf of Free2Learn.
- 3.3. **Controller** – Any entity (e.g. company, organisation or person) that makes its own decisions about how it is going to collect and use Personal Data.

A Controller is responsible for compliance with Data Protection Laws. Examples of Personal Data Free2Learn is the Controller of include employee details or information Free2Learn collects relating to students. Free2Learn will be viewed as a Controller of Personal Data if it decides what Personal Data Free2Learn is going to collect and how it will use it.

A common misconception is that individuals within organisations are the Controllers. This is not the case; it is the organisation itself which is the Controller.

- 3.4. **Data Protection Laws** – The General Data Protection Regulation (Regulation (EU) 2016/679) and all applicable laws relating to the collection and use of Personal Data and privacy and any applicable codes of practice issued by a regulator including in the UK, the Data Protection Act 2018.
- 3.5. **Data Protection Officer** – Our Data Protection Officer is Laura Watkin, who can be contacted at: 0208 525 9430 ext. 3002, [laura@free2learn.org.uk](mailto:laura@free2learn.org.uk).
- 3.6. **EEA** – Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the UK.
- 3.7. **ICO** – the Information Commissioner's Office, the UK's data protection regulator.
- 3.8. **Individuals** – Living individuals who can be identified, *directly or indirectly*, from information that Free2Learn has. For example, an individual could be identified directly by name, or indirectly by gender, job role and office location if you can use this information to work out who they are. Individuals include employees, students, parents, visitors and potential students. Individuals also include partnerships and sole traders.

- 3.9. **Personal Data** – Any information about an Individual (see definition above) which identifies them or allows them to be identified in conjunction with other information that is held. It includes information of this type, even if used in a business context.

Personal data is defined broadly and covers things such as name, address, email address (including in a business context, email addresses of Individuals in companies such as firstname.surname@organisation.com), IP address and also more sensitive types of data such as trade union membership, genetic data and religious beliefs. These more sensitive types of data are called “Special Categories of Personal Data” and are defined below. Special Categories of Personal Data are given extra protection by Data Protection Laws.

- 3.10. **Processor** – Any entity (e.g. company, organisation or person) which accesses or uses Personal Data on the instruction of a Controller.

A Processor is a third party that processes Personal Data on behalf of a Controller. This is usually as a result of the outsourcing of a service by the Controller or the provision of services by the Processor which involve access to or use of Personal Data. Examples include: where software support for a system, which contains Personal Data, is provided by someone outside the business; cloud arrangements; and mail fulfilment services.

- 3.11. **Special Categories of Personal Data** – Personal Data that reveals a person’s racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, genetic data (i.e. information about their inherited or acquired genetic characteristics), biometric data (i.e. information about their physical, physiological or behavioural characteristics such as facial images and fingerprints), physical or mental health, sexual life or sexual orientation and criminal record. Special Categories of Personal Data are subject to additional controls in comparison to ordinary Personal Data.

#### 4. **FREE2LEARN PERSONNEL’S GENERAL OBLIGATIONS**

- 4.1. All Free2Learn Personnel must comply with this policy.
- 4.2. Free2Learn Personnel must ensure that they keep confidential all Personal Data that they collect, store, use and come into contact with during the performance of their duties.
- 4.3. Free2Learn Personnel must not release or disclose any Personal Data:
- 4.3.1. outside Free2Learn; or
  - 4.3.2. inside Free2Learn to Free2Learn Personnel not authorised to access the Personal Data,
- without specific authorisation from their manager or the Data Protection Officer; this includes by phone calls or in emails.
- 4.4. Free2Learn Personnel must take all steps to ensure there is no unauthorised access to Personal Data whether by other Free2Learn Personnel who are not authorised to see such Personal Data or by people outside Free2Learn.

## **5. DATA PROTECTION PRINCIPLES**

- 5.1. When using Personal Data, Data Protection Laws require that Free2Learn complies with the following principles. These principles require Personal Data to be:
  - 5.1.1. processed lawfully, fairly and in a transparent manner;
  - 5.1.2. collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes;
  - 5.1.3. adequate, relevant and limited to what is necessary for the purposes for which it is being processed;
  - 5.1.4. accurate and kept up to date, meaning that every reasonable step must be taken to ensure that Personal Data that is inaccurate is erased or rectified as soon as possible;
  - 5.1.5. kept for no longer than is necessary for the purposes for which it is being processed; and
  - 5.1.6. 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.
- 5.2. These principles are considered in more detail in the remainder of this Policy.
- 5.3. In addition to complying with the above requirements Free2Learn also has to demonstrate in writing that it complies with them. Free2Learn has a number of policies and procedures in place, including this Policy and the documentation referred to in it, to ensure that Free2Learn can demonstrate its compliance.

## **6. LAWFUL USE OF PERSONAL DATA**

- 6.1. In order to collect and/or use Personal Data lawfully Free2Learn needs to be able to show that its use meets one of a number of legal grounds. The detailed grounds can be found on the ICO website <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing>
- 6.2. In addition when collects and/or uses Special Categories of Personal Data, Free2Learn has to show that one of a number of additional conditions is met. The detailed additional conditions can be found on the ICO website <https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/special-category-data>
- 6.3. Free2Learn has carefully assessed how it uses Personal Data and how it complies with the obligations set out in paragraphs 6.1 and 6.2. If Free2Learn changes how it uses Personal Data, Free2Learn needs to update this record and may also need to notify Individuals about the change. If Free2Learn Personnel therefore intend to change how they use Personal Data at any point they must notify the Data Protection Officer who will decide whether their intended use requires amendments to be made and any other controls which need to apply.

## **7. TRANSPARENT PROCESSING – PRIVACY NOTICES**

- 7.1. Where Free2Learn collects Personal Data directly from Individuals, Free2Learn will inform them about how Free2Learn uses their Personal Data. This is in a privacy notice. Free2Learn has adopted the following privacy notices:
  - Staff
  - Suppliers and Visitors
  - Students
- 7.2. If Free2Learn receives Personal Data about an Individual from other sources, Free2Learn will provide the Individual with a privacy notice about how Free2Learn will use their Personal Data. This will be provided as soon as reasonably possible and in any event within one month.
- 7.3. If Free2Learn changes how it uses Personal Data, Free2Learn may need to notify Individuals about the change. If Free2Learn Personnel therefore intend to change how they use Personal Data please notify the Data Protection Officer who will decide whether the Free2Learn Personnel's intended use requires amendments to be made to the privacy notices and any other controls which need to apply.

## **8. DATA QUALITY – ENSURING THE USE OF ACCURATE, UP TO DATE AND RELEVANT PERSONAL DATA**

- 8.1. Data Protection Laws require that Free2Learn only collects and processes Personal Data to the extent that it is required for the specific purpose(s) notified to the Individual in a privacy notice (see paragraph 7 above) and as set out in Free2Learn's record of how it uses Personal Data. Free2Learn is also required to ensure that the Personal Data Free2Learn holds is accurate and kept up to date.
- 8.2. All Free2Learn Personnel that collect and record Personal Data shall ensure that the Personal Data is recorded accurately, is kept up to date and shall also ensure that they limit the collection and recording of Personal Data to that which is adequate, relevant and limited to what is necessary in relation to the purpose for which it is collected and used.
- 8.3. All Free2Learn Personnel that obtain Personal Data from sources outside Free2Learn shall take reasonable steps to ensure that the Personal Data is recorded accurately, is up to date and limited to that which is adequate, relevant and limited to what is necessary in relation to the purpose for which it is collected and used. This does not require Free2Learn Personnel to independently check the Personal Data obtained.
- 8.4. In order to maintain the quality of Personal Data, all Free2Learn Personnel that access Personal Data shall ensure that they review, maintain and update it to ensure that it remains accurate, up to date, adequate, relevant and limited to what is necessary in relation to the purpose for which it is collected and used. Please note that this does not apply to Personal Data which Free2Learn must keep in its original form (e.g. for legal reasons or that which is relevant to an investigation).
- 8.5. Free2Learn recognises the importance of ensuring that Personal Data is amended, rectified, erased or its use restricted where this is appropriate under Data Protection Laws. Free2Learn has a Rights of Individuals Policy and a Rights of Individuals Procedure which set out how Free2Learn responds to requests relating to these issues. Any request from an individual for the amendment, rectification, erasure or restriction of the use of their Personal Data should be dealt with in accordance with those documents.

## 9. PERSONAL DATA MUST NOT BE KEPT FOR LONGER THAN NEEDED

- 9.1. Data Protection Laws require that Free2Learn does not keep Personal Data longer than is necessary for the purpose or purposes for which Free2Learn collected it.
- 9.2. Free2Learn has assessed the types of Personal Data that it holds and the purposes it uses it for and has set retention periods for the different types of Personal Data processed by Free2Learn. Free2Learn securely shreds paper records and securely deletes electronic records of Personal Data at the end of those periods.
- 9.3. If Free2Learn Personnel feel that a particular item of Personal Data needs to be kept for more or less time than the set retention period for example because there is a requirement of law, or if Free2Learn Personnel have any questions about this Policy or Free2Learn's Personal Data retention practices, they should contact the Data Protection Officer for guidance.

## 10. DATA SECURITY

Free2Learn takes information security very seriously and Free2Learn has security measures against unlawful or unauthorised processing of Personal Data and against the accidental loss of, or damage to, Personal Data. Free2Learn has in place procedures and technologies to maintain the security of all Personal Data from the point of collection to the point of destruction.

## 11. DATA BREACH

- 11.1. Whilst Free2Learn takes information security very seriously, unfortunately, in today's environment, it is possible that a security breach could happen which may result in the unauthorised loss of, access to, deletion of or alteration of Personal Data. If this happens there will be a Personal Data breach and Free2Learn Personnel must comply with Free2Learn's Data Breach Notification Policy. Please see paragraphs 11.2 and 11.3 for examples of what can be a Personal Data breach. Please familiarise yourself with it as it contains important obligations which Free2Learn Personnel need to comply with in the event of Personal Data breaches.
- 11.2. Personal Data breach is defined very broadly and is effectively any failure to keep Personal Data secure, which leads to the accidental or unlawful loss (including loss of access to), destruction, alteration or unauthorised disclosure of Personal Data. Whilst most Personal Data breaches happen as a result of action taken by a third party, they can also occur as a result of something someone internal does.
- 11.3. There are three main types of Personal Data breach which are as follows:
  - 11.3.1. **Confidentiality breach** - where there is an unauthorised or accidental disclosure of, or access to, Personal Data e.g. hacking, accessing internal systems that Free2Learn Personnel is not authorised to access, accessing Personal Data stored on a lost laptop, phone or other device, people "blagging" access to Personal Data they have no right to access, putting the wrong letter in the wrong envelope, sending an email to the wrong student, or disclosing information over the phone to the wrong person;
  - 11.3.2. **Availability breach** - where there is an accidental or unauthorised loss of access to, or destruction of, Personal Data e.g. loss of a memory stick, laptop or device, denial of service attack, infection of systems by ransom ware, deleting Personal Data in error, loss of access to Personal Data stored on

systems, inability to restore access to Personal Data from back up, or loss of an encryption key; and

11.3.3. **Integrity breach** - where there is an unauthorised or accidental alteration of Personal Data.

## 12. **APPOINTING CONTRACTORS WHO ACCESS FREE2LEARN'S PERSONAL DATA**

12.1. If Free2Learn appoints a contractor who is a Processor of Free2Learn's Personal Data, Data Protection Laws require that Free2Learn only appoints them where Free2Learn has carried out sufficient due diligence and only where Free2Learn has appropriate contracts in place.

12.2. One requirement of GDPR is that a Controller must only use Processors who meet the requirements of the GDPR and protect the rights of individuals. This means that data protection due diligence should be undertaken on both new and existing suppliers. Once a Processor is appointed they should be audited periodically to ensure that they are meeting the requirements of their contract in relation to Data Protection.

12.3. Any contract where an organisation appoints a Processor must be in writing.

12.4. You are considered as having appointed a Processor where you engage someone to perform a service for you and as part of it they may get access to your Personal Data. Where you appoint a Processor you, as Controller remain responsible for what happens to the Personal Data.

12.5. GDPR requires the contract with a Processor to contain the following obligations as a minimum:

12.5.1. to only act on the written instructions of the Controller;

12.5.2. to not export Personal Data without the Controller's instruction;

12.5.3. to ensure staff are subject to confidentiality obligations;

12.5.4. to take appropriate security measures;

12.5.5. to only engage sub-processors with the prior consent (specific or general) of the Controller and under a written contract;

12.5.6. to keep the Personal Data secure and assist the Controller to do so;

12.5.7. to assist with the notification of Data Breaches and Data Protection Impact Assessments;

12.5.8. to assist with subject access/individuals rights;

12.5.9. to delete/return all Personal Data as requested at the end of the contract;

12.5.10. to submit to audits and provide information about the processing; and

12.5.11. to tell the Controller if any instruction is in breach of the GDPR or other EU or member state data protection law.

12.6. In addition the contract should set out:

- 12.6.1. The subject-matter and duration of the processing;
- 12.6.2. the nature and purpose of the processing;
- 12.6.3. the type of Personal Data and categories of individuals; and
- 12.6.4. the obligations and rights of the Controller.

### **13. INDIVIDUALS' RIGHTS**

13.1. GDPR gives individuals more control about how their data is collected and stored and what is done with it. Some existing rights of individuals have been expanded upon and some new rights have been introduced. It is extremely important that Free2Learn plans how it will handle these requests under GDPR.

13.2. The different types of rights of individuals are reflected in this paragraph.

#### **13.3. Subject Access Requests**

13.3.1. Individuals have the right under the GDPR to ask Free2Learn to confirm what Personal Data they hold in relation to them and provide them with the data. This is not a new right but additional information has to be provided and the timescale for providing it has been reduced from 40 days to one month (with a possible extension if it is a complex request). In addition, you will no longer be able to charge a fee for complying with the request.

13.3.2. Subject Access Requests are becoming more and more common and are often made in the context of a dispute which means that it is crucial that they are handled appropriately to avoid a complaint being made to the ICO.

#### **13.4. Right of Erasure (Right to be Forgotten)**

13.4.1. This is a limited right for individuals to request the erasure of Personal Data concerning them where:

- 13.4.1.1. the use of the Personal Data is no longer necessary;
- 13.4.1.2. their consent is withdrawn and there is no other legal ground for the processing;
- 13.4.1.3. the individual objects to the processing and there are no overriding legitimate grounds for the processing;
- 13.4.1.4. the Personal Data has been unlawfully processed; and
- 13.4.1.5. the Personal Data has to be erased for compliance with a legal obligation.

13.4.2. 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.

### 13.5. **Right of Data Portability**

13.5.1. An individual has the right to request that data concerning them is provided to them in a structured, commonly used and machine readable format where:

13.5.1.1. the processing is based on consent or on a contract; and

13.5.1.2. the processing is carried out by automated means

13.5.2. This right isn't the same as subject access and is intended to give individuals a subset of their data.

### 13.6. **The Right of Rectification and Restriction**

13.6.1. Finally, individuals are also given the right to request that any Personal Data is rectified if inaccurate and to have use of their Personal Data restricted to particular purposes in certain circumstances.

13.7. Free2Learn will use all Personal Data in accordance with the rights given to Individuals' under Data Protection Laws, and will ensure that it allows Individuals to exercise their rights in accordance with Free2Learn's Rights of Individuals Policy and Rights of Individuals Procedure. Please familiarise yourself with these documents as they contain important obligations which Free2Learn Personnel need to comply with in relation to the rights of Individuals over their Personal Data.

## 14. **MARKETING AND CONSENT**

14.1. Free2Learn will sometimes contact Individuals to send them marketing or to promote Free2Learn. Where Free2Learn carries out any marketing, Data Protection Laws require that this is only done in a legally compliant manner.

14.2. Marketing consists of any advertising or marketing communication that is directed to particular individuals. GDPR will bring about a number of important changes for organisations that market to individuals, including:

14.2.1. providing more detail in their privacy notices, including for example whether profiling takes place; and

14.2.2. rules on obtaining consent will be stricter and will require an individual's "clear affirmative action". The ICO like consent to be used in a marketing context.

14.3. Free2Learn also needs to be aware of the Privacy and Electronic Communications Regulations (PECR) that sit alongside data protection. PECR apply to direct marketing i.e. a communication directed to particular individuals and covers any advertising/marketing material. It applies to electronic communication i.e. calls, emails, texts, faxes. PECR rules apply even if you are not processing any personal data.

14.4. Consent is central to electronic marketing. We would recommend that best practice is to provide an un-ticked opt-in box.

14.5. Alternatively, Free2Learn may be able to market using a "soft opt in" if the following conditions were met:

- 14.5.1. contact details have been obtained in the course of a sale (or negotiations for a sale);
- 14.5.2. Free2Learn are marketing its own similar services; and
- 14.5.3. Free2Learn gives the individual a simple opportunity to refuse to opt out of the marketing, both when first collecting the details and in every message after that.

## 15. **AUTOMATED DECISION MAKING AND PROFILING**

- 15.1. Under Data Protection Laws there are controls around profiling and automated decision making in relation to Individuals.

**Automated Decision Making** happens where Free2Learn makes a decision about an Individual solely by automated means without any human involvement and the decision has legal or other significant effects; and

**Profiling** happens where Free2Learn automatically uses Personal Data to evaluate certain things about an Individual.

- 15.2. Any Automated Decision Making or Profiling which Free2Learn carries out can only be done once Free2Learn is confident that it is complying with Data Protection Laws. If Free2Learn Personnel therefore wish to carry out any Automated Decision Making or Profiling Free2Learn Personnel must inform the Data Protection Officer.
- 15.3. Free2Learn Personnel must not carry out Automated Decision Making or Profiling without the approval of the Data Protection Officer.
- 15.4. Free2Learn does not carry out Automated Decision Making or Profiling in relation to its employees.

## 16. **DATA PROTECTION IMPACT ASSESSMENTS (DPIA)**

- 16.1. The GDPR introduce a new requirement to carry out a risk assessment in relation to the use of Personal Data for a new service, product or process. This must be done prior to the processing via a Data Protection Impact Assessment ("**DPIA**"). A DPIA should be started as early as practical in the design of processing operations. A DPIA is not a prohibition on using Personal Data but is an assessment of issues affecting Personal Data which need to be considered before a new product/service/process is rolled out. The process is designed to:

- 16.1.1. describe the collection and use of Personal Data;
- 16.1.2. assess its necessity and its proportionality in relation to the purposes;
- 16.1.3. assess the risks to the rights and freedoms of individuals; and
- 16.1.4. the measures to address the risks.

- 16.2. A DPIA must be completed where the use of Personal Data is likely to result in a high risk to the rights and freedoms of individuals. The ICO's standard DPIA template is available from [www.ico.org.uk](http://www.ico.org.uk).

- 16.3. Where a DPIA reveals risks which are not appropriately mitigated the ICO must be consulted.
- 16.4. Where Free2Learn is launching or proposing to adopt a new process, product or service which involves Personal Data, Free2Learn needs to consider whether it needs to carry out a DPIA as part of the project initiation process. Free2Learn needs to carry out a DPIA at an early stage in the process so that Free2Learn can identify and fix problems with its proposed new process, product or service at an early stage, reducing the associated costs and damage to reputation, which might otherwise occur.
- 16.5. Situations where Free2Learn may have to carry out a Data Protection Impact Assessment include the following (please note that this list is not exhaustive):
  - 16.5.1. large scale and systematic use of Personal Data for the purposes of Automated Decision Making or Profiling (see definitions above) where legal or similarly significant decisions are made;
  - 16.5.2. large scale use of Special Categories of Personal Data, or Personal Data relating to criminal convictions and offences e.g. the use of high volumes of health data; or
  - 16.5.3. systematic monitoring of public areas on a large scale e.g. CCTV cameras.
- 16.6. All DPIAs must be reviewed and approved by the Data Protection Officer.

## **17. TRANSFERRING PERSONAL DATA TO A COUNTRY OUTSIDE THE EEA**

- 17.1. Data Protection Laws impose strict controls on Personal Data being transferred outside the EEA. Transfer includes sending Personal Data outside the EEA but also includes storage of Personal Data or access to it outside the EEA. It needs to be thought about whenever Free2Learn appoints a supplier outside the EEA or Free2Learn appoints a supplier with group companies outside the EEA which may give access to the Personal Data to staff outside the EEA.
- 17.2. So that Free2Learn can ensure it is compliant with Data Protection Laws Free2Learn Personnel must not export Personal Data unless it has been approved by the Data Protection Officer.
- 17.3. Free2Learn Personnel must not export any Personal Data outside the EEA without the approval of the Data Protection Officer.