

Davidson Training UK Limited

General Data Protection Regulation (GDPR) and Data Protection Policy

Policy and Procedure V8 2020

Davidson Training UK Limited

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Data Protection Policy

Policy

This policy applies to all members of Davidson Training UK Limited (“the company”). For the purposes of this policy, the term “Staff” means all members of the company staff including any third party representatives, agency workers, and volunteers engaged with the company.

All contractors and agents acting for or on behalf of the company should be made aware of this policy.

This policy applies to all personal and sensitive personal data processed on computers and stored in manual (paper based) files. It aims to protect and promote the rights of individuals and the company.

Personal Data: Any information which relates to a living individual who can be identified from the information. It also extends to any information which may identify the individual. Examples of personal data:

- A person’s name and address (postal and email)
- Date of birth
- Statement of fact
- Any expression or opinion communicated about an individual
- Minutes of meetings, reports
- Emails, file notes, handwritten notes, sticky notes
- Employment and learner applications
- Spreadsheets and/or databases with any list of people set up by code or learner/staff number
- Employment or education history

Sensitive Personal Data: Any information relating to an individual’s:

- Ethnicity
- Gender
- Religious or other beliefs
- Political opinions
- Membership of a trade union
- Sexual orientation
- Medical history
- Offences committed or alleged to have been committed by that individual

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Definition

The Data Protection Act 1998 is designed to protect individuals and personal data, which is held and processed on their behalf. The Act defines the individual as the 'data subject' and their personal information as 'data'. These are further defined as:

- Data Subject: Any living individual who is the subject of personal data whether in a personal or business capacity
- Data: Any personal information which relates to a living individual who can be identified. This includes any expression of opinion about the individual.
- Data is information stored electronically i.e. on computer, including word processing documents, emails, computer records, CCTV images, microfilmed documents, backed up files or databases, faxes and information recorded on telephone logging systems
- Manual records which are structured, accessible and form part of a 'relevant filing systems' (filed by subject, reference, dividers or content), where individuals can be identified and personal data easily accessed without the need to trawl through a file.

The Company recognises and understands the consequences of failure to comply with the requirements of the Data Protection Act 1998 may result in:

- Criminal and civil action.
- Fines and damages.
- Personal accountability and liability.
- Suspension/withdrawal of the right to process personal at by the Information Commissioners Office (ICO)
- Loss of confidence in the integrity of the Company's systems and procedures.
- Irreparable damage to the Company's reputation.

The Company may also consider taking action, in accordance with the Company's Disciplinary Procedure, where staff do not comply with the Data Protection Act 1998.

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Roles and Responsibilities

Staff will not attempt to gain access to information that is not necessary to hold, know or process. All information which is held will be relevant and accurate for the purpose for which it is required. The information will not be kept for longer than is necessary and will be kept secure at all times. The Company will ensure that all personal or sensitive personal information is anonymised as part of any evaluation of assets and liability assessments except as required by law. Staff who manage and process personal or sensitive personal information will ensure that it is kept secure and where necessary confidential. Sensitive personal information will only be processed fairly and lawfully and in line with the provisions set out in the Data Protection Act 1998 and only processed in accordance with instructions set out by the respective Data Controllers. The Company will ensure that all staff are made aware of the reasons why personal and sensitive personal data is being processed:

- how it will be processed
- who will process it
- how it will be stored
- how it will be disposed of when no longer required

Data Subjects Rights

The Company acknowledges individuals (data subjects) rights under the Data Protection Act to access any personal data held on our systems and in our files upon their request, or to delete and/or correct this information if it is proven to be inaccurate, excessive or out of date. The Company recognises that individuals have the right to make a request in writing and upon payment of a fee, obtain a copy of their personal information, if held on our systems and files. The Company recognises that individuals have the right to prevent data processing where it is causing them damage or distress, or to opt out of automated decision making and stop direct marketing.

Company (Data Controllers) Obligations

The Company will follow Code of Practice issued by the ICO when developing policies and procedure in relation to data protection.

The Company will ensure that Data Processing Agreements are applied to all contracts and management agreements where the Company is the data controller contracting out services and processing of personal data to third parties (data processors). The Company will ensure this agreement clearly outlines the roles and responsibilities of both the data controller and the data processor.

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General Data Protection Regulation (GDPR)

Rationale

Davidson Training UK Ltd is committed to a policy of protecting the rights and privacy of individuals, including learners, staff and others, in accordance with the General Data Protection Regulation (GDPR) May 2018.

The new regulatory environment demands higher transparency and accountability in how training providers manage and use personal data. It also accords new and stronger rights for individuals to understand and control that use.

The GDPR contains provisions that Davidson Training UK Ltd will need to be aware of as data controllers, including provisions intended to enhance the protection of learners' personal data. For example, the GDPR requires that:

- We must ensure that our privacy notices are written in a clear, plain way that staff and learners will understand.

Davidson Training UK Ltd needs to process certain information about its staff, learners, employers and other individuals with whom it has a relationship for various purposes such as, but not limited to:

1. The recruitment and payment of staff.
2. The administration of programmes of study and courses.
3. Learner enrolment.
4. Examinations and external accreditation.
5. Recording learner progress, attendance and conduct.
6. Collecting any fees due.
7. Complying with legal obligations to funding bodies and government.

To comply with various legal obligations, including the obligations imposed on it by the General Data Protection Regulation (GDPR) Davidson Training UK Ltd must ensure that all this information about individuals is collected and used fairly, stored safely and securely, and not disclosed to any third party unlawfully.

Compliance

This policy applies to all staff and learners of Davidson Training UK Ltd. Any breach of this policy or of the Regulation itself will be considered an offence and Davidson Training UK Ltd disciplinary procedures will be invoked. As a matter of best practice, other agencies and individuals working with Davidson Training UK Ltd and who have access to personal information, will be expected to read and comply with this policy.

This policy will be updated as necessary to reflect best practice in data management, security and control and to ensure compliance with any changes or amendments to the GDPR and other relevant legislation.

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The Code of Practice on GDPR for Davidson Training UK Ltd gives further detailed guidance and Davidson Training UK Ltd undertakes to adopt and comply with this Code of Practice.

General Data Protection Regulation (GDPR)

This piece of legislation came into force on the 25th May 2018. The GDPR regulates the processing of personal data, and protects the rights and privacy of all living individuals (including children), for example by giving all individuals who are the subject of personal data a general right of access to the personal data which relates to them. Individuals can exercise the right to gain access to their information by means of a 'subject access request'. Personal data is information relating to an individual and may be in hard or soft copy (paper/manual files; electronic records; photographs; CCTV images), and may include facts or opinions about a person.

The GDPR also sets out specific rights for learners in relation to educational records held within the state education system. These rights are set out in separate education regulations 'The Education (Pupil Information) (England) Regulations 2000'. For more detailed information on these Regulations see the Data Protection Data Sharing Code of Practice (DPCoP) from the Information Commissioner's Office (ICO). Please follow this link to the ICO's website (www.ico.gov.uk).

Responsibilities under the GDPR

Davidson Training UK Ltd will be the 'data controller' under the terms of the legislation – this means it is ultimately responsible for controlling the use and processing of the personal data. Davidson Training UK Ltd appoints a Data Protection Officer (DPO), currently the Training Operations Manager who is available to address any concerns regarding the data held by Davidson Training UK Ltd and how it is processed, held and used.

The Quality Assurance Team is responsible for all day-to-day data protection matters, and will be responsible for ensuring that all members of staff and relevant individuals abide by this policy, and for developing and encouraging good information handling within the organisation.

Compliance with the legislation is the personal responsibility of all members of Davidson Training UK Ltd who process personal information. Individuals who provide personal data to Davidson Training UK Ltd are responsible for ensuring that the information is accurate and up-to-date.

Data Protection Principles

The legislation places a responsibility on every data controller to process any personal data in accordance with the eight principles. More detailed guidance on how to comply with these principles can be found in the DPCoP. Please follow this link to the ICO's website (www.ico.gov.uk)

In order to comply with its obligations, Davidson Training UK Ltd undertakes to adhere to the eight principles:

1) Process personal data fairly and lawfully.

Davidson Training UK Ltd will make all reasonable efforts to ensure that individuals who are the focus of the personal data (data subjects) are informed of the identity of the data controller, the purposes of the processing, any disclosures to third parties that are envisaged; given an indication of the period for which the data will be kept, and any other information which may be relevant. For example,

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2) Process the data for the specific and lawful purpose for which it collected that data and not further process the data in a manner incompatible with this purpose.

Davidson Training UK Ltd will ensure that the reason for which it collected the data originally is the only reason for which it processes those data, unless the individual is informed of any additional processing before it takes place.

3) Ensure that the data is adequate, relevant and not excessive in relation to the purpose for which it is processed.

Davidson Training UK Ltd will not seek to collect any personal data which is not strictly necessary for the purpose for which it was obtained. Forms for collecting data will always be drafted with this mind. If any irrelevant data are given by individuals, they will be destroyed immediately.

4) Keep personal data accurate and, where necessary, up to date.

Davidson Training UK Ltd will review and update all data on a regular basis. It is the responsibility of the individuals giving their personal data to ensure that this is accurate, and each individual should notify Davidson Training UK Ltd if, for example, a change in circumstances mean that the data needs to be updated. It is the responsibility of Davidson Training UK Ltd to ensure that any notification regarding the change is noted and acted on.

5) Only keep personal data for as long as is necessary.

Davidson Training UK Ltd undertakes not to retain personal data for longer than is necessary to ensure compliance with the legislation, and any other statutory requirements. This means Davidson Training UK Ltd will undertake a regular review of the information held and implement a weeding process. Davidson Training UK Ltd will dispose of any personal data in a way that protects the rights and privacy of the individual concerned (e.g. secure electronic deletion, shredding and disposal of hard copy files as confidential waste). A log will be kept of the records destroyed.

6) Process personal data in accordance with the rights of the data subject under the legislation. Individuals have various rights under the legislation including a right to:

- Be told the nature of the information Davidson Training UK Ltd holds and any parties to whom this may be disclosed.
- Prevent processing likely to cause damage or distress.
- Prevent processing for purposes of direct marketing.
- Be informed about the mechanics of any automated decision making process that will significantly affect them.
- Not have significant decisions that will affect them taken solely by automated process.
- Sue for compensation if they suffer damage by any contravention of the legislation.
- Take action to rectify, block, erase or destroy inaccurate data.
- Request that the Office of the Information Commissioner assess whether any provision of the Act has been contravened.

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Davidson Training UK Ltd will only process personal data in accordance with individuals' rights.

7) Put appropriate technical and organisational measures in place against unauthorised or unlawful processing of personal data, and against accidental loss or destruction of data.

All members of staff are responsible for ensuring that any personal data which they hold is kept securely and not disclosed to any unauthorised third parties.

Davidson Training UK Ltd will ensure that all personal data is accessible only to those who have a valid reason for using it. Davidson Training UK Ltd will have in place appropriate security measures e.g. ensuring that hard copy personal data is kept in lockable filing cabinets/cupboards with controlled access (with the keys then held securely in a key cabinet with controlled access):

- Keeping all personal data in a lockable cabinet with key-controlled access.
- Password protecting personal data held electronically.
- Archiving personal data which are then kept securely (lockable cabinet).
- Placing any PCs or terminals, CCTV camera screens etc. that show personal data so that they are not visible except to authorised staff.
- Ensuring that PC screens are not left unattended without a password protected screen-saver being used.

In addition, Davidson Training UK Ltd will put in place appropriate measures for the deletion of personal data - manual records will be shredded or disposed of as 'confidential waste' and appropriate contract terms will be put in place with any third parties undertaking this work. Hard drives of redundant PCs will be wiped clean before disposal or if that is not possible, destroyed physically. A log will be kept of the records destroyed.

This policy also applies to staff and learners who process personal data 'off-site', e.g. when working at home, and in circumstances additional care must be taken regarding the security of the data.

8) Ensure that no personal data is transferred to a country or a territory outside the European Economic Area (EEA) unless that country or territory ensures adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

Davidson Training UK Ltd will not transfer data to such territories without the explicit consent of the individual.

This also applies to publishing information on the Internet - because transfer of data can include placing data on a website that can be accessed from outside the EEA - so BCA will always seek the consent of individuals before placing any personal data (including photographs) on its website.

If Davidson Training UK Ltd collects personal data in any form via its website, it will provide a clear and detailed privacy statement prominently on the website, and wherever else personal data is collected.

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Consent as a basis for processing

Although it is not always necessary to gain consent from individuals before processing their data, it is often the best way to ensure that data is collected and processed in an open and transparent manner.

Consent is especially important when Davidson Training UK Ltd is processing any sensitive data, as defined by the legislation. Davidson Training UK Ltd understands consent to mean that the individual has been fully informed of the intended processing and has signified their agreement (e.g. via the enrolment form) whilst being of a sound mind and without having any undue influence exerted upon them. Consent obtained on the basis of misleading information will not be a valid basis for processing. Consent cannot be inferred from the non-response to a communication.

“Personal Details“

- For the purposes of the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679 you consent to Davidson Training UK Ltd holding and processing personal data including sensitive personal data of which you are the subject, details of which are specified in Davidson Training UK Ltd data protection policy.
- This will include marketing images.

Davidson Training UK Ltd will ensure that any forms used to gather data on an individual will contain a statement (fair collection statement) explaining the use of that data, how the data may be disclosed and also indicate whether or not the individual needs to consent to the processing.

Davidson Training UK Ltd will include the specified statement from the DfE on the student enrolment form and update when required following the ESFA's technical guidance:

How We Use Your Personal Information

This privacy notice is issued by the Education and Skills Funding Agency (ESFA), on behalf of the Secretary of State for the Department of Education (DfE). It is to inform learners how their personal information will be used by the DfE, the ESFA (an executive agency of the DfE) and any successor bodies to these organisations. For the purposes of the Data Protection Act 1998, the DfE is the data controller for personal data processed by the ESFA. Your personal information is used by the DfE to exercise its functions and to meet its statutory responsibilities, including under the Apprenticeships, Skills, Children and Learning Act 2009 and to create and maintain a unique learner number (ULN) and a personal learning record (PLR).

Your information may be shared with third parties for education, training, employment and well-being related purposes, including for research. This will only take place where the law allows it and the sharing is in compliance with the Data Protection Act 1998.

The English European Social Fund (ESF) Managing Authority (or agents acting on its behalf) may contact you in order for them to carry out research and evaluation to inform the effectiveness of training.

You can opt out of contact for other purposes by ticking any of the following boxes if you do not wish to be contacted:

- *About courses or learning opportunities.*
- *For surveys and research.*

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- *By post.*
- *By phone.*
- *By email.*

*Further information about use of and access to your personal data, and details of organisations with whom we regularly share data are available at:
<https://www.gov.uk/government/publications/esfa-privacy-notice>*

Davidson Training UK Ltd will ensure that if the individual does not give his/her consent for the processing, and there is no other lawful basis on which to process the data, then steps will be taken to ensure that processing of that data does not take place.

Subject Access Rights (SARs)

Individuals have a right to access any personal data relating to them which are held by Davidson Training UK Ltd. Any individual wishing to exercise this right should apply in writing to the Training Operations Manager. Any member of staff receiving a SAR should forward this to the Training Operations Manager. Davidson Training UK Ltd reserves the right to charge a fee for data subject access requests (currently £20). Under the terms of the legislation, any such requests must be complied with within 40 days.

Disclosure of Data

Only disclosures which have been notified under Davidson Training UK Ltd DP notification must be made and therefore staff and learners should exercise caution when asked to disclose personal data held on another individual or third party.

Davidson Training UK Ltd undertakes not to disclose personal data to unauthorised third parties, including family members, friends and government bodies and in some circumstances, the police.

Legitimate disclosures may occur in the following instances:

- The individual has given their consent to the disclosure.
- The disclosure has been notified and is in the legitimate interests of Davidson Training UK Ltd.
- The disclosure is required for the performance of a contract.

There are other instances when the legislation permits disclosure without the consent of the individual. For detailed guidance on disclosures see the Code of Practice (CoP). In no circumstances will Davidson Training UK Ltd sell any of its databases to a third party.