

# ELA TRAINING SERVICES

## Data Protection Policy



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## Introduction

ELA Ltd holds and processes information about employees, learners, employers and suppliers for academic, administrative and commercial purposes. When handling such information, ELA and all staff must comply with the General Data Protection Regulations (GDPR) which are set out in the Data Protection Act 2018 (the Act).

### In summary these state that personal data shall:

- Be processed fairly, lawfully and in a transparent manner,
- Be obtained for a specified, explicit and lawful purpose and shall not be processed in any manner incompatible with the purpose,
- Be adequate, relevant and limited to what is necessary for the purpose
- Be accurate and up-to-date, (Inaccurate data will be erased or rectified without delay)
- Not be kept for longer than necessary for the purpose,
- Be processed in a manner that ensures appropriate security of the personal data,
- Be kept safe from unauthorised processing, and accidental loss, damage or destruction,
- Not be transferred to a country outside the European Economic Area, unless that country has equivalent levels of protection for personal data, except in specified circumstances.

### Definitions

- "Data controller" is the person, authority or agency who determines the purpose and method for processing data
- "Staff", "learners" and "other data subjects" may include past, present and potential members of those groups.
- "Other data subjects" and "third parties" may include contractors, suppliers, contacts, referees, friends or family members.
- "Processing" refers to any action involving personal data, including obtaining, viewing, copying, amending, adding, deleting, extracting, storing, disclosing or destroying information.



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## Notification of Data Held

ELA will notify all staff and students and other relevant data subjects of the types of data held and processed by ELA concerning them, and the reasons for which it is processed.

When processing for a new or different purpose is introduced the individuals affected by that change will be informed and the Data Protection Register entry will be amended.

## Processing of Learner Data

This sections covers the 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 of learner data that included but is not limited to personal data.

## How we use Learner Data (extract from Apprenticeship Enrolment Form 2021-2022 (v1))

The information that learners supply will be used by the Education & Skills Funding Agency, an Executive Agency of the Department for Business, Innovation and Skills, to issue you (if you do not already have one) with a Unique Learner Number (ULN), and to create your Personal Learning Record. For more information about how your information is processed and shared, please refer to the ESFA Privacy Notice found at <https://www.gov.uk/government/publications/esfa-privacy-notice/education-and-skills-funding-agency-privacy-notice-may-2018>

Other organisations with which we will share information include; Department for Work & Pensions, Local and Combined Authorities in England, Greater London Authority, Higher Education Statistics Agency, Office for Standards in Education, Institute for Apprenticeships and educational institutions and organisations performing research and statistical work on behalf of the Department for Education, or partners of those organisations.

## What Learner Data we use

As per Employer Agreement (v1) 2021-2022, SCHEDULE 6 – PROCESSING, PERSONAL DATA AND DATA SUBJECTS Part 1 – Processing by ELA Training Services:

- Scope: ELA Training Services will process personal data as necessary to provide the Training Services (as defined in this agreement) in accordance with the agreement and as instructed by the Employer.



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- Nature: collecting, recording, sorting, storing, retrieving, using and deleting the personal data.
- Purpose of the processing: the performance of this agreement and the delivery of the Training Services
- Duration of the processing: the duration of this agreement or for as long as ELA Training Services may be required to process personal data in accordance with Applicable Laws.

**Part 2** – Types of Personal Data: name, address, date of birth and contact information (email, phone and physical address) of data subjects.

**Part 3** – Categories of Data Subject: Apprentices and employees/staff of the Employer.

### How we ensure that Learners know what we do with their Data

Learners are asked to confirm via their Commitment Statement 2021-2022 (v1) that they have been provided with our Data Protection Policy and the key elements of:

- The data that we take from learner
- The reasons that we take their data
- Our methods of storing their data securely
- The length of time that we keep their data

The exceptional lawful basis upon which we do not need to inform them of data use.

### How we ensure that Employers know what we do with their and their apprentices' Data As per the DATA PROTECTION part of the Employer Agreement

The following definitions apply:

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.



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Data Protection Legislation: the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 14, Applicable Laws means (for so long as and to the extent that they apply to ELA Training Services) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and Domestic UK Law means the UK Data Protection Legislation and any other law that applies in the UK.

The parties acknowledge that for the purposes of the Data Protection Legislation, the Employer is the Controller and ELA Training Services is the Processor. Schedule 6 sets out the scope, nature and purpose of processing by the Provider, the duration of the processing and the types of Personal Data and categories of Data Subject. Without prejudice to the generality of 14.2, the Employer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to ELA Training Services and/or lawful collection of the Personal Data by

ELA Training Services on behalf of the Employer for the duration and purposes of this agreement.

Without prejudice to the generality of 14.2, ELA Training Services shall, in relation to any Personal Data processed in connection with the performance by ELA Training Services of its obligations under this agreement:

Process that Personal Data only on the documented written instructions of the Employer unless ELA Training Services is required by Applicable Laws to otherwise process that Personal Data. Where ELA Training Services is relying on Applicable Laws as the basis for processing Personal Data, ELA Training Services shall promptly notify the Employer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit ELA Training Services from so notifying the Employer;



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ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Employer has been obtained and the following conditions are fulfilled:

the Employer or ELA Training Services has provided appropriate safeguards in relation to the transfer;

the data subject has enforceable rights and effective legal remedies;  
 ELA Training Services complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

ELA Training Services complies with reasonable instructions notified to it in advance by the Employer with respect to the processing of the Personal Data;

assist the Employer, at the Employer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

notify the Employer without undue delay on becoming aware of a Personal Data Breach; at the written direction of the Employer, delete or return Personal Data and copies thereof to the Employer on termination of this agreement unless required by Applicable Law to store the Personal Data; and maintain complete and accurate records and information to demonstrate its compliance with this clause 14.



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ELA Training Services shall not appoint any third-party processor of Personal Data under this agreement unless the Employer has given its written consent. Where the Employer gives such written consent, ELA Training Services shall ensure that it enters with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 14. As between the Employer and ELA Training Services, ELA Training Services shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.6.

ELA Training Services shall not appoint any third-party processor of Personal Data under this agreement unless the Employer has given its written consent. Where the Employer gives such written consent, ELA Training Services shall ensure that it enters with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 14. As between the Employer and ELA Training Services, ELA Training Services shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 14.6.

## ELA Training Enrolment Data Privacy Notice Summary

### (a simple to understand comprehensive single page document)

To be used at main enrolments to inform apprentices and learners of the basics of Data Protection.

Information you give us

Your personal information, where you studied previously and your academic records.

What we use the information for

To provide you with a full education experience and services under our public interest task of providing education to you. There are various education acts and data protection law that we abide by. Some of your data will be transferred to other internal systems, such as Onefile and our learner information management system (PICS). We also take your photograph for ID purposes, record sound and images during virtual learning sessions and in the interest of safety, security and safeguarding.

Who we share the information with

We do share your information with various national and local government agencies, such as the Education and Skills Funding Agency, as well as Awarding Organisations, partner institutions.



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We may also share your information with legal firms and future employers with your specific authority – these organisations will gain your agreement before contacting us. Occasionally we may have to provide a copy of our electronic database to our Software Supplier for fault investigation purposes. We have legal agreements with our software suppliers that they will only use the data for this purpose and will destroy it when no longer needed.

### Why we share this information

To ensure your education is paid for and that our obligations under the Education Act are met.

To ensure you receive your qualification certificates.

To ensure your safety, security and safeguarding.

To ensure our software systems function correctly.

The Education and Funding Skills Agency also require you to consent to being contacted for their own survey purposes. Please see over for their Privacy Statement. We collect your consent on their behalf.

### Your rights

You have various rights including requesting that any errors in the data we hold about you are corrected, to ask what personal information we hold about you and to make a complaint to the Information Commissioner's Office (ICO) if you are unhappy about the way your personal data is being used.

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 relevant data protection legislation, 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 will be securely destroyed after it is no longer required for these purposes.



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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 data protection legislation. 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 agree to be contacted directly by the ESFA about courses and learning opportunities or for their surveys and research by ticking the appropriate boxes on your enrolment form, or your online application or enrolment. If you are applying or enrolling by phone you will be asked to give your consent.

Further information about use of and access to your personal data, details of organisations with whom the ESFA regularly shares data, information about how long the ESFA retains your data, and how to change your consent to being contacted, please visit <https://www.gov.uk/government/publications/esfa-privacy-notice>

**Staff Responsibilities**

All staff shall:

- ensure that all personal information which they provide to ELA in connection with their employment is accurate and up-to-date;
- inform ELA of any changes to information, for example, changes of address; check the information which ELA will make available from time to time, in written or automated form, and inform ELA of any errors or, where appropriate, follow procedures for up-dating entries on computer forms. ELA will not be held responsible for errors of which it has not been informed.
- When staff hold or process information about learners, colleagues or other data subjects (for example, learners’ course work, references, or details of personal circumstances), they should comply with the following:

Staff shall ensure that:

All personal information is kept securely;



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- Personal information is not disclosed either orally or in writing, accidentally or otherwise to any unauthorised third party. Unauthorised disclosure may be a disciplinary matter, and may be considered gross misconduct in some cases.

When staff supervise learners doing work which involves the processing of personal information, they must ensure that those students are aware of the General Data Protection Principles, in particular, the requirement to obtain the data subject's consent where appropriate.

### Student Responsibilities

#### All students shall:

- ensure that all personal information which they provide to ELA is accurate and up-to-date;
- inform ELA of any changes to that information, for example, changes of address;
- check the information which ELA will make available from time to time, in written or automated form, and inform ELA of any errors or, where appropriate, follow procedures for up-dating entries on computer forms. ELA will not be held responsible for errors of which it has not been informed.

#### Rights to Access Information

Staff, learners and other data subjects in ELA have the right to access any personal data that is being kept about them either on computer or in structured and accessible manual files. Any person may exercise this right by submitting a request in writing to the appropriate designated data controller.

ELA aims to comply with requests for access to personal information as quickly as possible, but will ensure that it is provided within 40 days unless there is good reason for delay. In such cases, the reason for the delay will be explained in writing by the designated data controller to the data subject making the request.

**Subject Consent:** In some cases, such as the handling of sensitive information or the processing of research data, ELA is entitled to process personal data only with the consent of the individual. Agreement to ELA processing some specified classes of personal data is a condition of acceptance of a learner on to any course, and a condition of employment for staff.



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ELA may process sensitive information about a person’s health, disabilities, criminal convictions, race or ethnic origin in pursuit of the legitimate interests of ELA. For example, some jobs or courses will bring the applicants into contact with children, including young people between the ages of 16 and 18, and ELA has a duty under the Children Act 1989 and other enactments to ensure that staff are suitable for the job, and learners for the courses offered. ELA may also require such information for the administration of the sick pay policy, the absence policy or the equal opportunities policy, or for course assessment.

ELA also asks for information about particular health needs, such as allergies to particular forms of medication, or conditions such as asthma or diabetes. ELA will only use such information to

### The Data Controller and the Designated Data Controllers

Inderjot Singh is the Data Controller under the Act, and the Operations Director is ultimately responsible for implementation. Information and advice about the holding and processing of personal information is available from the Data Protection Officer –Ali Khan

**Assessment Marks:** Learners shall be entitled to information about their marks for assessments; however this may take longer than other information to provide. ELA may withhold enrolment, awards, certificates, accreditation or references in the event that monies are due.

**Retention of Data:** ELA will keep different types of information for differing lengths of time, depending on legal, academic and operational requirements.

**Compliance:** Compliance with the Act is the responsibility of all learners and members of staff. Any deliberate or reckless breach of this Policy may lead to a disciplinary hearing, and where appropriate, legal proceedings. Any questions or concerns about the interpretation or operation of this policy should be taken up with the Data Protection Officer.

Any individual, who considers that the policy has not been followed in respect of personal data about him or herself, should raise the matter with the Data Controller initially. If the matter is not resolved it should be referred to the staff grievance or learner complaints procedure.

Adoption Date	Updated	Review Date	Director
08/2018	1/8/2022	1/8/2023	

