



## W2W Privacy & GDPR Policy 2018

### What is Personal Data?

In today's world, almost every aspect of our lives resolves around personal data. Think about banks, shops, social media, even getting your hair done – we all share personal data in most transactions. This means information like your name, address, telephone number, bank account details, shopping preferences and more are collected, analysed and stored by large and small organisations around the world. Way2Work are a Data Controller and collect your personal information to enable us to deliver regulated government approved qualifications and training.

### Definitions

**W2W** stands for Way2Work which is an approved training provider on the Register of Apprenticeship Training Providers (RoATP).

**AfC** stands for Achieving for Children, a community interest company providing services for children in Kingston, Richmond and Windsor & Maidenhead. AfC owns and manages the Way2Work service on behalf of the London Borough of Richmond upon Thames.

**Data Controller** means the organisation which determines the purpose and manner in which personal data is processed.

**Data Processor** means any organisation which processes personal data on behalf of a Data Controller.

**EEA** means the “European Economic Area” which is the countries of the Economic Union (EU) plus a few other countries which make up the European single-market.

**GDPR** means the “General Data Protection Regulation” which is a new piece of Government legislation that comes into effect on 25 May 2018.

**OIC** means Office of the Information Commissioner.

## **Rationale**

Way2Work (W2W) 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 learning 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 W2W will need to be aware of as data controllers, including provisions intended to enhance the protection of learner's 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.

W2W needs to process certain information about its staff, learners, parents and guardians and other individuals with whom it has a relationship for various purposes such as, but not limited to:

1. The administration of programmes of study and courses.
2. Learner enrolment.
3. Examinations and external accreditation from awarding bodies.
4. Recording learner progress, attendance and conduct.
5. Collecting fees where applicable.
6. Complying with legal obligations to funding bodies and government including local government.

To comply with various legal obligations, including the obligations imposed on it by the General Data Protection Regulation (GDPR), W2W must ensure that all the 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 W2W staff and learners. Any breach of this policy or of the regulation itself will be considered an offence and our disciplinary procedures will be invoked.

As a matter of best practice, other agencies and individuals working with W2W and who have access to personal information, will be expected to also read and comply with this policy.

This privacy 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.

## **General Data Protection Regulation (GDPR) May 2018**

This piece of legislation comes 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](http://www.ico.gov.uk))

GDPR applies to all organisations in all EU member states. Organisations have until 25th May 2018 until the regulation applies to them.

Even though the UK is set to leave the EU in March 2019, the UK Government has said that GDPR will stand after Brexit. It will help strengthen data protection across the UK and make it easier for UK organisations to work with European partners.

## **Responsibilities under the GDPR**

W2W 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. W2W which is part of Achieving for Children (AfC) has appointed a Data Protection Officer (DPO) who is available to address any concerns regarding the data held by

W2W and how it is processed, stored and used. W2W also has a nominated manager 'Barri Ghai' who oversees this policy and its compliance.

The AfC Senior Leadership Team is responsible for all day-to-day data protection matters for the organisation and will be responsible for ensuring that all members of W2W staff and relevant individuals abide by this policy, and for developing and encouraging good information handling within the W2W service.

The AfC Senior Leadership Team is also responsible for ensuring that Achieving for Children's notification is kept accurate. Details of AfC's notification can be found on the Office of the Information Commissioner's website. AfC's data registration number is: **ZA045069**

Compliance with the legislation is the personal responsibility of all members of W2W who process personal information. All individuals who provide personal data to W2W are responsible for ensuring that the information is accurate and up-to-date to the best of their knowledge.

## **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](http://www.ico.gov.uk))

In order to comply with its obligations, W2W undertakes to adhere to the eight principles:

### **1. Process personal data fairly and lawfully.**

W2W 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.

### **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.**

W2W will ensure that the reason for which it collected the data originally is the only reason for which it processes that 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.**

W2W 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 in mind. If any irrelevant data is provided by individuals, it will be destroyed immediately.

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

W2W will review and update all data requirements on a regular basis. It is the responsibility of the individual providing their personal data to ensure that this is accurate, and each individual should notify W2W if, for example, a change in circumstances mean that the data needs to be updated. It is the responsibility of W2W to ensure that any notification regarding the change is accurately noted and acted on.

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

W2W undertakes not to retain personal data for longer than is necessary to ensure compliance with the legislation and any other statutory requirements. This means W2W will undertake a regular review of the information held and implement a weeding process.

W2W 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 new legislation including a right to:

- Be told the nature of the information W2W holds and any parties to whom this may be disclosed to.
- 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 an 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.

W2W will therefore 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 W2W staff are responsible for ensuring that any personal data which they hold is kept securely and not disclosed to any unauthorised third parties.

W2W will ensure that all personal data is accessible only to those who have a valid reason for using it.

W2W 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 is 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's/Laptop/Tablet/Mobile screens are not left unattended without a password protected screen-saver being used.

In addition, W2W 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 from home, or another site 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.**

W2W 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 W2W will always seek the consent of individuals before placing any personal data (including photographs) on its website.

If W2W 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.

## **Consent as a basis for processing personal data**

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 W2W is processing any sensitive data, as defined by the legislation.

W2W understands consent to mean that the individual has been fully informed of the intended processing and has signified their agreement (e.g. via the application 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 W2W holding and processing personal data including sensitive personal data of which you are the subject, details of which are specified in W2W's data protection policy. This will include marketing images and CCTV."

W2W 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.

This privacy notice does not cover the links within the Way2Work website linking to other sites. We encourage you to read the privacy statements on the other websites you visit.

W2W will include the specified statement from the Education Skills Funding Agency on the online learner application form and update when required following changes to the ESFA's own privacy policy:

### **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, and GDPR Act 2018 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

- By post
- By phone
- By email

Further information about use of and access to your personal data, and details of organisations with whom the ESFA regularly share data are available at:

<https://www.gov.uk/government/publications/esfa-privacy-notice>

W2W 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 Requests (SARs)**

Individuals have a right to access any personal data relating to them which are held by W2W. Any individual wishing to exercise this right should apply in writing. Any member of staff receiving an SAR should forward this immediately to the Way2Work Manager.

If we do hold information about you we will:

- Give you a description of it;
- Tell you why we are holding it;
- Tell you who it could be disclosed to; and
- Let you have a copy of the information in an intelligible form.

To make a request to Way2Work for any personal information we may hold you need to put the request in writing to the address provided at the bottom of this policy.

Under the terms of the legislation, any such request must be complied with within 30 working days of evidenced receipt of the written request.

## **Disclosure of Data**

Only disclosures which have been notified under W2W's 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.

W2W undertakes not to disclose personal data to unauthorised third parties, including family members, friends, government bodies and in some circumstances, the police.

Legitimate disclosures may occur in the following instances:

- Where the individual has given their consent to the disclosure.
- Where the disclosure has been notified to the OIC and is in the legitimate interests of W2W.
- Where the disclosure is required for the performance of a contract.

There may be other instances when the legislation also permits disclosure without the consent of the individual, but under no circumstances will W2W ever sell any of its databases to a third party.

## **Publication of Information**

W2W may publish various items which will include some level of personal data, however the individual will be asked to provide explicit consent before doing so.

It may be that in some circumstances an individual wishes their data processed for such reasons to be kept confidential, or restricted W2W access only. Therefore it is W2W's policy to offer an opportunity to opt-out of the publication of such when collecting the information.

### **Email**

It is the policy of W2W to ensure that senders and recipients of email are made aware that under the DPA, and Freedom of Information Legislation, the contents of an email may have to be disclosed in response to a request for information. One means by which this will be communicated will be by a disclaimer on W2W's email.

Under the Regulation of Investigatory Powers Act 2000, Lawful Business Practice Regulations, any email sent to or from W2W may be accessed by someone other than the recipient for system management and security purposes.

### **CCTV**

There are some CCTV systems operating within the Venue, Heatham House for the purpose of protecting W2W staff and the security of property. W2W will only process

personal data obtained by the CCTV system in a manner which ensures compliance with the relevant legislation.

## **Our Awarding Bodies**

- The personal data you provide will be shared with our awarding bodies for the purposes of completing a qualification/apprenticeship/Traineeship/End Point Assessment or QADAP pack and will be stored thereafter for a minimum of 50 years by the awarding organisation from the date of certification.
- If the learner is registered for a Functional Skills qualification their data will be passed onto SkillsFirst Awards Ltd and thereafter processed and stored with SkillsFirst as per their own requirements.
- BIIAB and CACHE/NCFE have a regulatory requirement to provide personal data to educational agencies such as the ESFA, Ofqual, Qualifications Wales, DfE, and The Learning Records Service (LRS). NB please note this list is subject to change and not exhaustive.
- For the purposes of audit and regulatory compliance BIIAB and CACHE/NCFE will retain personal data for all learners registered with the awarding organisation whether or not they complete the registration or are withdrawn at a later date.
- All learner data stored on BIIAB's two sites Online Registration Certification System (ORCS) and Online Registration Certification and Assessment System (ORCAS) is stored at a dedicated datacentre securely protected by a firewall and data transfers between the sites are via a SSL with regular penetration testing taking place to ensure continued security. Only approved members of BIIAB staff have access to these systems at Head Office.
- Way2Work will retain CVs, Certificates and CPD records for all staff involved in the delivery of qualifications whilst they remain at our centre and for 3 years after they leave W2W.

## **Way2Work use OneFile to manage your electronic learner portfolio.**

- OneFile is a data processor or sub-processor
- Online portfolios will be stored securely by OneFile for a minimum of 3 years.
- W2W have a commercial licensing agreement with OneFile Ltd therefore W2W are the Data Controller and OneFile are the Data Processor.
- OneFile are ISO27001 certified.
- The commercial licensing agreement between W2W and OneFile is GDPR compliant.

## Procedure for review

This policy will be updated as necessary to reflect best practice or future amendments made to the General Data Protection Regulation (GDPR) May 2018 and Data Protection Act 1998.

We keep our privacy notice under regular review. This privacy notice was last updated on 11<sup>th</sup> May 2018.

Please follow this link to the ICO's website ([www.ico.gov.uk](http://www.ico.gov.uk)) which provides further detailed guidance on a range of topics including individuals' rights, exemptions from the Act, dealing with Subject Access Requests, how to handle requests from third parties for personal data to be disclosed etc. In particular, you may find it helpful to read the Guide to Data Protection which is available from the website.

For help or advice on any data protection or freedom of information issues, please do not hesitate to contact the Way2Work Manager - Barri Ghai by email ([barri.ghai@achievingforchildren.org.uk](mailto:barri.ghai@achievingforchildren.org.uk)) or the AfC Data Protection Officer (DPO) – [dpo@achievingforchildren.org.uk](mailto:dpo@achievingforchildren.org.uk)

Under the Data Protection Act 1998, you have rights as an individual which you can exercise in relation to the information we hold about you. You can read more about these rights here:

<https://ico.org.uk/for-the-public/is-my-information-being-handled-correctly/>

From the 25 May 2018, the General Data Protection Regulations will be enforced and you can read more about your individual rights here:

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/>.

If you want to request further information about our privacy notice or your rights you can email us at any time at: [way2work@achievingforchildren.org.uk](mailto:way2work@achievingforchildren.org.uk) or write to us at: Way2Work, The Venue, Heatham House, Whitton Road, Twickenham, TW1 1BH