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Data Protection Policy
(Including GDPR)
2023 – 2024

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The London Borough of Merton is committed to providing high quality and sustainable adult learning to improve the social, economic, health and wellbeing outcomes of our residents. We will deliver this through a strategic investment approach: commissioning provision to the best providers in the field and by developing sophisticated evidence based approaches to what we deliver.

The Service operates a commissioned learning service across the borough at provider venues. We work in partnership with representatives from these organisations to agree where responsibilities lay in relation to data protection and GDPR, sharing data securely, and that relevant information is made available.

The Merton Adult Learning (MAL) team and subcontracted providers are required to manage data protection to meet the standards of the Service, Merton Council, the Greater London Authority (GLA), and the Education and Skills Funding Agency (ESFA), and their responsibilities under this policy. This policy will be reviewed as necessary in consultation with the affected personnel and representatives. Any changes to it will be made available to all affected by its provisions.

Introduction

MAL and all subcontracted providers use personal information to carry out the functions of the service as required by the GLA, the ESFA and law. A number of Acts of Parliament and Regulations made under these requires and sometimes empowers MAL and the Council to provide goods and services to the community and to individuals in the community.

MAL and all subcontracted providers endeavour to ensure that personal information is used in line with the expectations and interests of learners, the Data Protection Act 2018, and the guidance for GDPR. All contracts with MAL providers include full details on data protection expectations, and any breach must be reported to MAL within 24 hours of the provider becoming aware.

The Data Protection Act 2018 gives details of the principles for handling personal data. Personal data covers both facts and opinions about individuals. The principles require that data information must be:

- used fairly, lawfully and transparently
- used for specified, explicit purposes
- used in a way that is adequate, relevant and limited to only what is necessary
- accurate and, where necessary, kept up to date
- kept for no longer than is necessary
- handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage

To comply with the Act, MAL and all subcontracted providers will ensure that:

- Personal Information is used fairly, lawfully and transparently. Learners will be informed about how their information is used and shared. Information supplied in confidence will not be disclosed without consent, unless it can be shown that the sharing is in the overriding public interest.

- Personal Information will not be used for secondary purposes that are against the legitimate interests of the people, it relates to, unless those

purposes are required by law or are in the overriding public interest.

- Only relevant information is obtained. Records kept by MAL or a provider will be adequate to support and record our work, it will not be excessive.

- If made aware that information held is inaccurate or out of date, appropriate steps will be taken to correct it.

- Personal information is not kept longer than is necessary and a Records Management Function is in place to support this.

- Any requests from those who want to exercise their rights to access information are assisted by the relevant provider department or team, and/or the Merton Information Governance Team.

- Personal data is kept securely with appropriate safeguards in place according to the information's sensitivity.

- Personal data is not sent out of the European Economic Area without appropriate safeguards to protect the rights of individuals.

Full information on the responsibilities of a MAL subcontracted provider are noted within contract arrangements.

Collection of Personal Data and Fair Processing

The Data Protection Act 2018 requires that the collection and use of personal information is fair, lawful and transparent. For this reason, information about how and why information is being collected and who it may be disclosed to, must be available and communicated to learners.

There are occasions when fair processing of information is not possible. The collection or disclosure of information where authorised or required by any enactment does not require us to make available information about how it will be used (this information being a matter of public record). However, MAL and all subcontracted providers will always provide details of how personal data is used, on request, unless to do so would prejudice a criminal investigation or place someone at risk of harm.

Sharing Personal Information

Depending on the original purpose for which it was obtained and the use to which it is to be put, information may be shared with a variety of services. It may also be shared, where necessary, with other organisations that provide services on our behalf. MAL will always seek to share information with partners for the benefit of service users unless legal restrictions prevent this.

In all these examples the information provided is only the minimum necessary to enable the provision of services. MAL and all subcontracted providers will inform learners about who their data is shared with at the earliest opportunity.

Personal information may also be provided to central government departments, where required to do so by law.

Information can be shared with the Police, HM Revenue and Customs, and the National Fraud Initiative to prevent and detect crime, prosecute offenders and assess taxes.

When personal information is shared, MAL and all subcontracted providers will do so securely and within the guidelines of GDPR. We respect the privacy of service users, whilst ensuring that we use the information that we hold to provide the vulnerable with the protection that they need.

MAL expects its staff and those of our providers, to respect the confidentiality of information about individuals. Whilst we will support staff in taking decisions about information sharing in accordance with their professional judgement MAL may take disciplinary or legal action against those who wilfully misuse personal data for unauthorised purposes.

Rights of access and prevention of processing

The Data Protection Act 2018 and GDPR guidance gives details on an individual's right to access, and consent to the information held about them. This right is not absolute, information about third parties, information prejudicial to investigations or social work as well as legal advice may be withheld in accordance with the law.

MAL supports the right of individuals to know how we and our providers use their information and will be proactive in allowing people access to their files.

Requests to access information held about individuals needs to be supported by proof of identity, and if applicable, any appropriate fee and will be responded to within 30 days.

Misuse of Personal Information

It is an offence for a person, knowingly or recklessly, without the consent of MAL and/or our providers to:

- obtain or disclose personal data or the information contained in personal data
- procure the disclosure to another person of the information contained in personal data.

Unless the disclosure:

- was necessary to prevent or detect crime; or
- was required or authorised by law

MAL will take appropriate action where there is a breach of data protection legislation and/or our contract or policy requirements.

The Adult Learning team will review any information on breaches of data protection regarding our learners or the contracted service with providers during monitoring meetings. Actions will be agreed to address any shortfall areas.

This policy is reviewed annually, or earlier should there be a significant change to guidance or policy.