

Adapt Consulting Company Limited

DATA-CONTROLLER TO DATA-PROCESSOR AGREEMENT

The Data-Controller
Highlands College

The Data-Processor
Tim Rogers (AdaptConsultingCompany)

CONTRACT SCOPE

This agreement is drafted in the context of GDPR and to be compliant with GDPR and as such the contract must contain a description of:

- > scope, nature and purpose of processing
- > duration of the processing; and
- > types of personal data and categories of data subjects.

<https://ico.org.uk/for-organisations/guide-to-the-general-data-protection-regulation-gdpr/accountability-and-governance/contracts/>

SERVICE CONTEXT

The Service
Data-Processor acting as Tutor/Assessor for CMI and business studies courses for Data-Controller

The Data
Student information relevant to the courses eg name, email, student number, course work, correspondence and assignments

The Processes

1. Teaching and Marking including mentoring and feedback
2. Correspondence with Highlands College and Students
3. Using Moodle platform as necessary for Tutor/Assessor role

The Period
Present (1 Feb 2018), until further notice (new instructions or notice of termination by Data-Controller or Data-Processor)

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KEY TERMS

As much as it is possible and practicable

1. the processor must only act on the written instructions of the controller (unless required by law to act without such instructions);
2. the processor must ensure that people processing the data are subject to a duty of confidence;
3. the processor must take appropriate measures to ensure the security of processing;
4. the processor must only engage a sub-processor with the prior consent of the data controller and a written contract;
5. the processor must assist the data controller in providing subject access and allowing data subjects to exercise their rights under the GDPR;
6. the processor must assist the data controller in meeting its GDPR obligations in relation to the security of processing, the notification of personal data breaches and data protection impact assessments;
7. the processor must delete or return all personal data to the controller as requested at the end of the contract; and
8. the processor must submit to audits and inspections, provide the controller with whatever information it needs to ensure that they are both meeting their obligations, and tell the controller immediately if it is asked to do something infringing the GDPR or other data protection law of the EU or a member state.

ACTIONS IN SUPPORT

In the absence of written instructions of the controller the Data-Processor will do the following which shall be notified to the Data-Controller and deemed agreed and approved if not contrary written instructions are received within 30 days.

The Data-Processor

1. May reasonably assume that the Data-Controller has permission (by contract, consent or legitimate interest etc) and therefore lawful basis to engage the Data-Processor and share the relevant data.
2. Shall have a Data Protection Policy which should be available to the Data-Controller for comment and approval
3. Shall have a Information Security Policy which should be available to the Data-Controller for comment and approval

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4. Shall have a Privacy Policy which should be available to the Data-Controller for comment and approval
5. Shall operate a Records Retention Policy and will take steps to ensure that the data is not held for any longer than is required.

The Data-Controller

Shall hold harmless and indemnify the Data-Processor for any action or omission under the written instructions of the controller or absence thereof.

In Summary

If you tell me in written instructions to do something I will. If that is wrong or creates a problem, that isn't my fault because I am obliged to act on the written instructions of the controller.

If there are no written instructions, then I cannot be accountable for not following written instructions.

The Data-Controller agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Data-Processor, its officers, directors, employees and sub consultants (collectively, Data-Processor) against all damages, liabilities or costs including reasonable attorneys' fees and defence costs, arising out of or in any way connected with these services or the performance by any of the parties above named of the services under this agreement, excepting only those damages, liabilities or costs attributable to the negligent acts or negligent failure to act by the Data-Processor.

KEY REFERENCES UNDER GDPR

Key resource: <https://gdpr-info.eu/>

Art. 24 GDPR Responsibility of the controller

Art. 28 GDPR Processor

Art. 29 GDPR Processing under the authority of the controller

Art. 30 GDPR Records of processing activities

Art. 32 GDPR Security of processing

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SUMMARY GUIDANCE FOR CONTROLLERS AND PROCESSORS

Controller

If you act as a controller, you must keep a record of the following information:

1. your name and contact details and, where applicable, any joint controllers, representatives and data protection officers;
2. the purposes of the processing;
3. a description of the categories of data subjects and of the categories of personal data;
4. the categories of recipients, including recipients in third countries or international organisations;
5. details of transfers of personal data to third countries (where applicable);
6. retention periods for different categories of personal data (where possible); and
7. a general description of the security measures employed (where possible).

Processor

If you act as a data processor, you must keep the following records:

1. your name and contact details and, where applicable, representatives and data protection officers;
2. the name and contact details of each controller you act for including, where applicable, representatives and data protection officers
3. the categories of processing carried out on behalf of each controller;
4. details of transfers of personal data to third countries (where applicable);
5. a general description of the security measures employed (where possible).

Additional Guidance

<https://ico.org.uk/media/about-the-ico/consultations/2014789/draft-gdpr-contracts-guidance-v1-for-consultation-september-2017.pdf>