

HIGHER EDUCATION AND TRAINING AWARDS COUNCIL, IRELAND

Comhairle na nDámhachtainí Ardoideachais agus Oiliúna, Éire

**Data Protection Policy
2010**

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**Comhairle na nDámhachtainí Ardoideachais
agus Oiliúna**

Higher Education and Training Awards Council

Polasaí um Chosaint Sonraí

Data Protection Policy



1. HETAC and Data Protection

1.1 Introduction

The Higher Education and Training Awards Council (HETAC) is committed to protecting the rights and privacy of individuals in accordance with the Data Protection Acts 1998 and 2003.

Data Protection involves the safeguarding of the privacy rights of individuals in relation to the processing of personal data. The Data Protection Act 1988 and 2003 confer rights on individuals as well as responsibilities on those concerned with the processing of personal data. This data may be held on computers or in conventional files.

HETAC regards the lawful and correct treatment of personal information as very important to successful operations and for maintaining confidence between ourselves and those with whom we deal. We therefore make every effort to ensure that personal information is treated lawfully and correctly.

1.2 Why HETAC Gathers Data?

HETAC needs to collect and use data for a variety of purposes concerning staff, pensioners, learners, clients, expert panellists, personal details associated with the provider database, data in respect of the First Destination survey and other individuals who come in contact with HETAC. The purposes of processing data include, inter alia, the accreditation of programmes of higher education and training, making awards, research activities (including, inter alia, the First Destination survey), recruitment and payment of staff, payment of pensioners and compliance with other statutory obligations as required by the Qualifications (Education and Training) Act, 1999.

HETAC has a learner database and processes a significant volume of personal data in respect of learners on its accredited programmes. HETAC typically controls the following types of learner personal data, i.e. name, address, telephone number, gender, date of birth, country of birth, provider, programme, award classification obtained and Personal Public Service Number (PPSN). This data is submitted securely by providers in two stages – registration of learners and secondly, recording of examination results.

This information is treated as confidential and is only used by HETAC for the purposes of discharging its functions under the Qualifications Act.

As a Data Controller, HETAC must comply with the eight Data Protection Principles which are set out in the Data Protection Acts and will administer its responsibilities under the legislation in accordance with these stated principles as follows:

- (i) *Obtain and process information fairly*
HETAC will obtain and process personal data fairly and in accordance with the fulfilment of its functions as set out in the Qualifications (Education and Training) Act, 1999.
- (ii) *Keep data only for one or more specified, explicit and lawful purposes*
HETAC will keep data for purposes that are specific, lawful and clearly stated and the data will only be processed in a manner compatible with these purposes.
- (iii) *Use and disclose data only in ways compatible with these purposes*
HETAC will only disclose personal data that are necessary for the purpose(s) or compatible with the purpose(s) for which it collects and keeps the data.

- (iv) *Keep data safe and secure*
HETAC will take appropriate security measures against unauthorised access to, or alteration, disclosure, destruction or unlawful processing of the data and against their accidental loss or destruction.
- (iv) *Keep data accurate, complete and, where necessary, up-to-date*
HETAC will have procedures that are adequate to ensure high levels of data accuracy and will put in place appropriate procedures to keep data up-to-date.
- (v) *Ensure that data are adequate, relevant and not excessive*
Personal data held by HETAC will be adequate, relevant and not excessive in relation to the purpose(s) for which it is collected and kept.
- (vii) *Retain data for no longer than is necessary for the purpose or purposes*
HETAC has a policy on retention periods for personal data which is outlined in the HETAC Records Disposal Schedule.
- (viii) *Give a copy of his/her personal data to that individual, on request, and correct the data or, in certain cases as defined in the DP Acts, block or erase the data where that individual so requests.* HETAC will have procedures in place to ensure that data subjects can exercise their rights under the Data Protection legislation.

HETAC confirms that personal data, e.g. learner records, in respect of learners obtained from Providers is processed according to these principles.

1.3 Policy Application

This policy applies to all employees, contractors and consultants at HETAC, including those users affiliated to third parties who are authorised to access HETAC systems and networks. The policy also applies to all computer and data communication systems owned by and/or administered by HETAC. Third Parties are required to note HETAC's obligations in this area.

To assure the public that all staff and others who process personal data on behalf of HETAC are doing so in accordance with these principles at all times, HETAC has published this Data Protection Policy on its website.

2. Data Controller

HETAC is a **data controller** under the Data Protection Acts and is registered with the Data Protection Commissioner.

HETAC has overall responsibility in respect of data which it controls for ensuring compliance with the Data Protection legislation. However, all employees of HETAC who collect and/or control the contents of and use personal data are also responsible for compliance with the Data Protection legislation. Every staff member managing and handling personal information must, therefore, appreciate that they are contractually responsible for adhering to the requirements of the Data Protection Acts.

HETAC will ensure that queries about handling personal information are promptly and courteously dealt with by our staff.

3. Governance

This policy has been approved by the Secretary/Director of Corporate and Learner Award Services.

This policy will be reviewed regularly in light of any legislative or other relevant developments.

Managers at all levels in HETAC are responsible for ensuring that its provisions are observed.

If any member of staff considers that this policy has not been followed, they should raise the matter through their line management with the Head of Framework Awards and Lifelong Learning.

4. Rights of data subjects to access to personal data

Data subjects include staff, clients and any other person about whom may HETAC process data.

All data subjects have the right to access the information held about them and ensure that it is correct and is obtained and processed fairly.

Requests to access information under the Data Protection Acts should be addressed to:

Data Protection Officer
Higher Education and Training Awards Council
26 - 27 Denzille Lane,
Dublin 2.
Phone Number: 01-6441500
Fax Number: 01-6441577

The request should be made in writing indicating that it is being made under the Data Protection Acts.

In addition to the right of access, every individual about whom a data controller keeps personal data has the right to have any inaccurate information rectified or erased.

If a data subject seeks to have any of his or her personal data rectified or erased, this will be done within 40 days of the request being made provided there is reasonable evidence in support of the need for rectification or erasure.

A data subject requesting access, rectification or erasure must apply in writing and provide sufficient information to satisfy HETAC of his/her identity. HETAC may make reasonable enquiries to satisfy itself about the identity of the person making the request to ensure that Personal Data is not disclosed to a party who is not entitled to it.

A request for access may be refused where the information would be subject to legal professional privilege in court. Where HETAC refuses to grant a request for access to data, and/or rectification or erasure, it will do so in writing and will set out the reasons for refusal. Any person who is dissatisfied with a refusal or the response of HETAC to their request has the right to make a complaint to the Data Protection Commissioner.

5. Responsibilities for use and further handling of personal data

Researchers involved in collecting and processing personal data on behalf of HETAC, must also comply with the requirements of the Data Protection Acts.

Anyone working for or on behalf of HETAC who process personal data controlled by HETAC, must operate in accordance with the Data Protection Acts and details of such processing must be the subject of formal agreements between HETAC and their employer or third party contractor respectively.

Furthermore it is the responsibility of third parties who provide personal data to HETAC to ensure that they adhere to the Data Protection Acts, including with regard to accuracy.

In addition, third parties providing the personal data to HETAC are obliged by law to have obtained the right from the data subject to disclose this personal data.

HETAC assures that all employees with access to personal information will respect the need for confidentiality and to avoid improper use or transfer of such information. Any employee who fails to adhere to these principles, can be subject to disciplinary action.

6. Procedures for Obtaining and Fairly Processing Information

At the time of providing personal information, individuals must be made aware of the following:

- (i) the identity of the persons who are collecting it (though this may often also be implied);
- (ii) that it will be kept on computer and in relevant filing systems;
- (iii) the purpose for which it will be kept and used;
- (iv) the persons or category of persons to whom it will be disclosed.

Secondary or future uses, which might not be obvious to individuals, should be brought to their attention at the time of obtaining personal data. Individuals should be given the option of saying whether or not they wish their information to be used in any other way.

If there is information about people on computer or in relevant filing systems and HETAC wishes to use it for a new purpose (not disclosed and perhaps not even contemplated at the time the information was collected), there is an obligation on HETAC to give an option to data subjects to indicate whether or not they wish their information to be used for the new purpose.

7. Procedures to Ensure Security of Information held by HETAC

HETAC has robust IT management systems with restricted access to ensure the security of personal data.

HETAC has established appropriate security provisions to ensure that:

- (i) Access to HETAC's computers and IT system is restricted to authorised staff only;
- (ii) Access to personal information is restricted to appropriate staff with responsibility for such areas;
- (iii) HETAC's IT systems are password protected;
- (iv) Information on screens is kept hidden from callers to the offices;
- (v) HETAC has a back-up procedure in place and our systems are regularly backed-up nightly so as to avoid the loss or compromise of data;
- (vi) All waste papers, printouts, etc are disposed of carefully;
- (vii) HETAC has assigned responsibility for the ongoing review of the operation of this policy to the Internal Auditor and reporting of the outcome to the Audit Committee.

8. Requirements for disclosure of Personal Information to a Third Party

HETAC will not disclose personal data to third parties unless the data subject has consented to this disclosure or unless the third party is required to access or process the data on behalf of HETAC subject to conditions imposed by HETAC.

However, HETAC may disclose personal data if believing in good faith that there is a requirement to disclose it in order to comply with any applicable law, a summons, a search warrant, a court order or other statutory obligation.

Third Party access is defined by HETAC as granting of access to HETAC's IT resources or data to an individual who is not an employee of HETAC.

Any third party that processes personal data on behalf of HETAC has a responsibility to ensure that the principles of the legislation are observed. The third party that processes data on behalf of HETAC must have adequate measures in place and provide HETAC with written guarantees to this effect.

The person or entity who applies to become a third party disclosee shall provide the following information in writing to HETAC in a timely fashion and at least 4 weeks in advance of the anticipated release of information.

- (i) A copy of the applicant's Data Protection Policy;
- (ii) Details relating to the purpose(s) for which the data is requested;
- (iii) A specification and definition of the data required;
- (iv) A list of their staff and others whom it is proposed will have access to the data whether in electronic or paper format;
- (v) A description of the security measures the data will enjoy;
- (vi) The duration which it is proposed to hold each category of data;
- (vii) The purging and deletion policy which applies to this data whether in electronic or paper format;
- (viii) A signed confidentiality agreement;
- (ix) Any other information which HETAC deems appropriate.

9. Website and electronic communications

HETAC is committed to respecting the rights of users, including an appropriate right to privacy that is consistent with this policy. HETAC does not, as a general rule, collect personal information from users of its website.

However, HETAC wishes to emphasise that it clearly cannot guarantee that electronic communications between others and HETAC will be private.

For general web browsing personal information is not revealed to HETAC, although certain statistical information may be made available via our internet service provider. This information may, inter alia, include:

- (i) the logical address of the server you are using;
- (ii) top level domain name from which you access the Internet (for example, .ie, com, .org);
- (iii) type of browser you are using;
- (iv) date and time you access our site;
- (v) Internet address used to link to our site.

Some of the above information may be used to create summary statistics which can allow HETAC to assess the number of visitors to our website, identify what pages are accessed most frequently and generally, help to make our website more user friendly.

10. Personal Data

The Data Protection Acts 1988 and 2003 impose statutory responsibilities on data controllers concerned with the processing of personal data in electronic format. This also applies to paper files, which are recorded as part of a structured filing system.

There are two important definitions in the legislation:

- (a) **Personal data** means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller (e.g. HETAC).
- (b) **Sensitive personal data** relates to specific categories of data which are defined as data relating to a person's racial origin; political opinions or religious or other beliefs; physical or mental health; sexual life; criminal convictions or the alleged commission of an offence; trade union membership e.g. personnel records.

HETAC accepts its responsibility for the secure custody of all personal data it controls and, in particular, acknowledges its responsibility to ensure the safe custody of personal and sensitive data in accordance with the Data Protection Acts of 1998 and 2003.

HETAC affirms that personal data will only be disclosed in ways that are necessary or compatible with the purposes for which the data is collected and maintained and also that special attention will be paid to the protection of sensitive personal data, the disclosure of which normally requires the explicit consent of the data subject.